

Also, the gentleman from Wisconsin (Mr. OBEY) impresses me. I am glad that both of these individuals have come forth on behalf of the taxpayer. Because, in 1997, under the National Taxpayers Union, both of them were rated with F's as big spenders. But, apparently, in the last couple hours we had have had a conversion. I am pleased to see it. I am impressed. I am excited about it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I simply rise to announce that the Senate has just passed this conference report by a vote of 88-5 and also to announce that at 2:30 this afternoon, the President of the United States announced that he will be pleased to sign this law.

The President said that first it must keep our budget balanced, it must preserve the budget surplus until we have saved Social Security, and then it must not undermine our national priorities, including education, health care, child care, and the environment.

The bill being considered by the Congress this afternoon meets those principles. I am quoting the President of the United States, and he says: "I will be pleased to sign this bill into law."

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

I would like to congratulate the chairman. He has done a heck of a job. He ought to be very pleased with those numbers that have just come out of the United States Senate and the announcement from the White House. Congratulations.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PEASE). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 29, not voting 45, as follows:

[Roll No. 190]

YEAS—359

Abercrombie	Barton	Bonior
Ackerman	Bass	Bono
Aderholt	Bereuter	Borski
Allen	Berman	Boswell
Andrews	Berry	Brady (PA)
Armey	Bilbray	Brady (TX)
Bachus	Bilirakis	Brown (CA)
Baesler	Bishop	Brown (FL)
Baker	Blagojevich	Brown (OH)
Baldacci	Bliley	Bryant
Ballenger	Blumenauer	Bunning
Barcia	Blunt	Buyer
Barr	Boehlert	Callahan
Bartlett	Bonilla	Calvert

Camp	Hilliard	Norwood
Campbell	Hinchey	Nussle
Canady	Hinojosa	Oberstar
Cannon	Holden	Olver
Capps	Hooley	Ortiz
Cardin	Horn	Owens
Carson	Hostettler	Oxley
Castle	Houghton	Packard
Chambliss	Hoyer	Pallone
Chenoweth	Hulshof	Pappas
Clay	Hunter	Pascrell
Clayton	Hutchinson	Pastor
Clement	Inglis	Paul
Coble	Istook	Paxon
Clyburn	Jackson (IL)	Payne
Collins	Jackson-Lee	Pease
Combest	(TX)	Pelosi
Condit	Jefferson	Peterson (MN)
Cook	Jenkins	Peterson (PA)
Cooksey	John	Petri
Costello	Johnson (CT)	Pickering
Cox	Johnson (WI)	Pickett
Coyne	Johnson, E. B.	Pitts
Cramer	Jones	Pombo
Crane	Kanjorski	Pomeroy
Crapo	Kaptur	Porter
Cubin	Kasich	Portman
Cummings	Kelly	Poshard
Cunningham	Kennedy (MA)	Price (NC)
Danner	Kennelly	Pryce (OH)
Davis (FL)	Kildee	Radanovich
Davis (IL)	Kilpatrick	Rahall
Davis (VA)	Kim	Ramstad
Deal	Kind (WI)	Redmond
Delahunt	Kleczka	Regula
DeLauro	Klink	Riley
DeLay	Klug	Rivers
Diaz-Balart	Knollenberg	Rodriguez
Dickey	Kolbe	Roemer
Dicks	Kucinich	Rogan
Dingell	LaFalce	Rogers
Dixon	LaHood	Rohrabacher
Dooley	Lampson	Ros-Lehtinen
Doolittle	Lantos	Rothman
Doyle	Latham	Roukema
Dreier	LaTourette	Roybal-Allard
Duncan	Lazio	Royce
Dunn	Leach	Rush
Ehlers	Lee	Ryun
Ehrlich	Levin	Salmon
Emerson	Lewis (CA)	Sanchez
Engel	Lewis (KY)	Sanders
English	Linder	Sandlin
Eshoo	Lipinski	Sawyer
Etheridge	Livingston	Saxton
Evans	LoBiondo	Scarborough
Everett	Lowe	Schaefer, Dan
Ewing	Lucas	Schaffer, Bob
Farr	Luther	Schumer
Fattah	Maloney (CT)	Scott
Fazio	Manton	Sensenbrenner
Filner	Manzullo	Serrano
Forbes	Markey	Sessions
Ford	Martinez	Sherman
Fossella	Mascara	Shimkus
Fowler	Matsui	Shuster
Fox	McCarthy (MO)	Sisisky
Frank (MA)	McCarthy (NY)	Skeen
Franks (NJ)	McCollum	Skelton
Frelinghuysen	McDermott	Slaughter
Frost	McGovern	Smith (MI)
Gallegly	McHale	Smith (NJ)
Ganske	McHugh	Smith (TX)
Gejdenson	McInnis	Smith, Adam
Gekas	McIntosh	Smith, Linda
Gibbons	McIntyre	Snowbarger
Gilchrest	McKeon	Snyder
Gillmor	McKinney	Solomon
Gilman	McNulty	Spence
Goode	Meek (FL)	Spratt
Goodlatte	Menendez	Stabenow
Goodling	Metcalfe	Stark
Gordon	Mica	Stearns
Goss	Millender-Goss	Stokes
Granger	Miller (FL)	Strickland
Greenwood	Mink	Stump
Gutierrez	Moakley	Stupak
Gutknecht	Moran (KS)	Sununu
Hall (OH)	Moran (VA)	Talent
Hamilton	Morella	Tanner
Hansen	Murtha	Tauscher
Hastert	Myrick	Tauzin
Hastings (WA)	Nadler	Taylor (MS)
Hayworth	Neal	Thomas
Hefner	Nethercutt	Thompson
Hergert	Neumann	Thornberry
Hill	Ney	Thune
Hilleary	Northup	Tiahrt
		Traficant

Turner	Watt (NC)	Wise
Upton	Watts (OK)	Wolf
Velazquez	Weldon (FL)	Wolfsey
Vento	Weldon (PA)	Wynn
Visclosky	Weller	Young (AK)
Walsh	Weygand	Young (FL)
Waters	White	
Watkins	Whitfield	

NAYS—29

Barrett (NE)	Edwards	Sabo
Barrett (WI)	Hall (TX)	Shadegg
Becerra	Hastings (FL)	Shaw
Bentsen	Hobson	Shays
Boehner	Kennedy (RI)	Souder
Boyd	Largent	Thurman
Chabot	Lewis (GA)	Tierney
Christensen	Maloney (NY)	Wexler
Coburn	Minge	Yates
Doggett	Obey	

NOT VOTING—45

Archer	Green	Parker
Bateman	Harman	Quinn
Boucher	Hefley	Rangel
Burr	Hoekstra	Reyes
Burton	Hyde	Riggs
Conyers	Johnson, Sam	Sanford
DeFazio	King (NY)	Skaggs
DeGette	Kingston	Smith (OR)
Deutsch	Kennedy	Stenholm
Fawell	McCrary	Taylor (NC)
Foley	McDade	Torres
Furse	Meehan	Towns
Gephardt	Meeks (NY)	Wamp
Gonzalez	Miller (CA)	Waxman
Graham	Mollohan	Wicker

□ 1641

Mr. JACKSON of Illinois changed his vote from "nay" to "yea."

So the resolution was agreed to.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3433, TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-553) on the resolution (H. Res. 450) providing for consideration of the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H.R. 2400, TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. SHUSTER. Mr. Speaker, pursuant to the House Resolution 449, I call up the conference report to accompany the bill (H.R. 2400), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, and ask for its immediate consideration in the House. The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 449, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. SHUSTER) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

□ 1645

Mr. OBEY. Mr. Speaker, under the assumption that the gentleman from Minnesota (Mr. OBERSTAR) is in favor of the conference report, I rise in opposition to the conference report and pursuant to rule XXXVIII, I request one-third of the time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is the gentleman from Minnesota opposed to the bill?

Mr. OBERSTAR. No, Mr. Speaker.

The SPEAKER pro tempore. Under the rule, the gentleman from Wisconsin (Mr. OBEY) will control one-third of the time, the gentleman from Minnesota (Mr. OBERSTAR) will control one-third of the time, and the gentleman from Pennsylvania (Mr. SHUSTER) will control one-third of the time.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Henry Clay, the great compromiser, once said the good thing about compromise is that for everything you give up, you get something in return. And, indeed, that is where we are today.

We bring back from our conference with the Senate a compromise. Now, if I could waive a magic wand, there are several things in this bill I would do differently. So we do bring a compromise to the floor, but it is a good compromise. It is more than a good compromise, Mr. Speaker. It is an historic piece of legislation. It is an historic piece of legislation because we put the trust back in the transportation trust funds.

This is an historic piece of legislation, Mr. Speaker, because now the American people will know that trust is being put back in the transportation trust fund. The revenue they pay, the gas tax which they pay into the transportation trust fund, will be available to be spent on transportation purposes. Indeed, while I and many others in this Chamber would have preferred to take the trust funds off budget, the compromise we reached is a good one, it is a solid one, it is a guarantee, an ironclad guarantee, that sets aside firewalls on the revenue coming into the transportation trust fund so that that money is available to be spent.

So when the average American drives up to the gas pump and pays his 18.3-cent Federal tax, that money is free to be spent. It is a guarantee, it is an ironclad guarantee. This is an historic matter in and of itself, and that is one of the major reasons why this legislation is so important to America.

What it means, if we do spend the revenue going into the trust fund, and not a penny more, only the revenue going into the trust fund, means that this bill over six years can guarantee \$200,500,000,000 spending, because that is the revenue projected to go into the trust fund.

Should there be more revenue going into the trust fund, that money will be available to be spent. Should there be less revenue going into the trust fund, then we will have to reduce the expenditures. It is fair, it is equitable, and it is keeping faith with the American people.

This legislation is going to save, the experts tell me, approximately 4,000 lives a year, not only because of the safety provisions we have in it, but because about 30 percent of our 42,000 highway fatalities each year are caused as a result of bad roads. As we improve the roads, we save lives.

Another very significant feature to this legislation is that the donor States will now get 90.5 percent minimum allocation guaranteed on the formulas. This is better than the guarantee in either the Senate or the House bill.

Also, we have streamlining provisions in here which make it more easy for the States to proceed giving the various groups their opportunity to express themselves, but to get highways and transit systems built more expeditiously so we can gain the increased productivity, convenience and safety that goes with it.

Mr. Speaker, I am very pleased to emphasize that just a few minutes ago the Senate passed this conference report by a vote of 88 to 5, and this afternoon the President of the United States said, "I will be pleased to sign it into law."

So we bring to Members now T-21, the Transportation Equity Act for the 21st Century, and urge its passage.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Virginia.

(Mr. BLILEY asked and was given permission to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I rise in support of the conference report.

I rise today in strong support of the conference report on H.R. 2400, the TEA-21 Act, which addresses a number of important environmental and safety issues that were committed to the attention of the Committee on Commerce.

As requested by the States, the conference report provides certainty regarding EPA's schedule for implementing the new ozone and PM air standards. The conference report also ensures that EPA will keep its promise to harmonize the schedule of its regional haze program and its promise to pay for PM monitors. To ensure that EPA uses the best science possible, the conference report directs the EPA Administrator to consider recommendations made by the National Academy of Sciences.

These provisions enjoyed wide support from the States and others, and I ask unanimous

consent to include in the record three letters of support.

The conference report also includes many of the provisions contained in H.R. 2691, the National Highway Traffic Safety Administration Reauthorization Act of 1998, which passed the House unanimously last month. In addition to reauthorizing NHTSA, it addresses the important issue of air bag safety and improves the protection of drivers, passengers, and children who are involved in motor vehicle crashes. These provisions will ultimately save lives.

The conference report also addresses the issue of NHTSA lobbying. We agreed on a bipartisan basis to prohibit NHTSA from lobbying State and local officials, just as they are prohibited from lobbying Members of Congress.

In closing, I would like to recognize the extraordinary effort that it took to bring this legislation to the floor today. Chairman BILIRAKIS, Chairman, TAUZIN, and Ranking Member DINGELL all worked very hard and on a bipartisan basis. I would also like to thank Chairman SHUSTER and Chairman PETRI, as well as Ranking Members OBERSTAR and RAHALL, for the high level of cooperation we received from the Transportation Committee.

Mr. Speaker, I strongly urge the adoption of the conference report.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the bill that we are pleased to bring to the House today is strong on mobility, strong on safety, strong on economic development. It sustains the economic expansion that our country is experiencing. It gives us thrust to continue the international competitiveness of the nation's economy. It is a balanced bill. It is strong on transportation, including all modes of transportation, transit, alternative transportation. It protects the environment, enhances safety, ensures fair treatment for construction and transit workers, for pedestrians, for bicyclists, for disadvantaged contractors, for people trying to end their dependence on welfare through the welfare to work provisions. Most importantly, it restores trust, the trust of the American people, to the Highway Trust Fund. It, with the guarantee provision we have included in this legislation, assures that we achieve in principle the goal we have sought in practice for so long, to take the trust fund off budget, but within the budget.

This is no small accomplishment. We have been working since 1968, for 30 years, to bring the Highway Trust Fund back to the position where the revenues in are the revenues spent out and invested in the Nation's transportation needs.

For the leadership that brought us to this point, I salute the gentleman from Pennsylvania (Chairman SHUSTER). I like the name of the bill that passed the House, BESTEA, the Bud E. Shuster Transportation for All Eternity Act. And I salute my chairman for the leadership he has given us for the strong role that he played in the conference, and bringing back to this body

an extraordinarily proud piece of legislation.

We have much to be proud of with this legislation. All of the points that I mentioned a moment ago can be expanded upon, but I think we can sum it up best with what the President said just moments ago. "Let me say, this bill does show that fiscal responsibility and investing in our future go hand-in-hand toward preparing our people and our country for the next century. I want to thank Secretary Slater, Larry Stein, especially the Members of the economic team, for the hard work they did starting from a very difficult position to reduce the spending in this bill. If the Congress does in fact pass the bill as expected, I will be pleased to sign it into law."

We would have liked a higher spending level. We would have liked many other provisions in this bill as we passed it in the House. But we bring back to you something that every Member of this body can take home to his or her district and stand up and be proud of and tell the American people we have done good as we approach the 21st Century, that that bridge to the 21st Century will not be a chimerical bridge, but it will be a bridge built on steel girders and concrete and asphalt and will take America into the 21st Century.

Mr. OBEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Speaker, I have a great deal of respect for the chairman of the committee, the gentleman from Pennsylvania (Mr. SHUSTER). He is, without question, I think one of the most effective chairs in this House, and he certainly knows how to run a railroad.

I also have considerable respect for the gentleman from Wisconsin (Mr. PETRI), the subcommittee chair for surface transportation. As far as the gentleman from Minnesota (Mr. OBERSTAR) is concerned, my friend from the wrong side of the bridge in Minnesota, he and I vote against each other about, I think we voted against each other more in the past week on this issue than we have in all of the time we have been here. I have great respect and affection for him. But I stand here today because I believe it is important to recognize that there are certain principles which are being grossly violated by this bill that should not be violated.

Mr. Speaker, the gentleman from Minnesota just said that there is something in this bill that every Member can take back home to their districts. That is certainly, certainly true. There are some 1,800 projects in this bill. To put that into perspective, in the entire history of the highway program, we have only had 1,022 projects for Members. In this bill, in one year, there will be 1,800. That is the most spectacular example of excess that I can recall.

There is even in this bill a \$120 million authorization for a highway in Canada. Now, I know a lot of citizens in a lot of States who would prefer that those dollars be spent in their own

States. I did not know that Canada had become attached as another State, but evidently, despite that, we are going to spend money there any way.

The main reason to oppose this bill is that it is simply a budget buster. As I understand it, it is \$32 billion over the CBO baseline over 6 years, and as a consequence of that, to find ways to pay for that excess, the committee has taken, we are told, about \$15 billion out of the hides of veterans' health care perhaps. They have also taken out \$2 billion out of the title XX block grant. That is the program which pays for child care, for child protective services, for foster care, for home base services for the elderly, for services for at risk youth, for Meals on Wheels for the home bound. \$2 billion coming out of that over three years. And then the bill says that for every year thereafter, there will be a continued reduction in that program.

I do not believe that home bound senior citizens expect us to build highways by running over their needs, and I do not believe that veterans think we should do so either.

I have two letters which I read earlier and I will read again a portion of them. The Paralyzed Veterans Association of America says as follows: "It has been purported that veterans have now agreed to the offsets due to the inclusion of certain increases in other benefits. This is patently untrue. The conferees should reconsider their actions in using veterans funds as offsets to pay for transportation and highway projects that far exceed the levels established in last year's budget agreement."

□ 1700

The Disabled American Veterans urge a "no" vote on the previous question on this bill because of their objections to the veterans' cuts.

It just seems to me, Mr. Speaker, that while highways certainly deserve to be a top priority, they do not deserve to be the only priority, and we should not be funding concrete in another country. Certainly, we should not be paying for 1,800 special congressional projects by taking it out of the hides of veterans' health care and title 20 block grant, which is needed by our most needy and defenseless citizens.

So that is why I will be offering, if I have the opportunity at the end of the bill, I will be offering a motion to recommit to at least eliminate the cuts for veterans that are used to finance a portion of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Wisconsin (Mr. PETRI), the distinguished chairman of the subcommittee.

Mr. PETRI. Mr. Speaker, I salute the Chairman's leadership in this matter.

Mr. Speaker, the true social safety net of this country is not made up of speeches delivered in this hall or even legislation passed in this hall. The true

social safety net of this country is the productive capacity of the American people and the American economy. Passage of this legislation will enhance that productivity that will improve, thereby, the social safety net and the well-being of all Americans.

I would join my colleagues in supporting this legislation that is backed by the National Conference of State Legislatures, the National Governors Association, the National League of Cities, the U.S. Conference of Mayors, the U.S. Chamber of Commerce, the AFL-CIO, the American Public Transit Association and the Representatives of America's Motorists, the AAA, the Senate of the United States by an 88-to-5 vote, and the President of the United States, who suggested the offsets that some of my colleagues deplore. But it has his support. It should form my colleagues. It is a good bill.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I rise in strong support of this measure.

This bill provides the vital funds necessary to rebuild Michigan's crumbling roads, bridges, and interstates, and I congratulate and thank Chairman SHUSTER and Ranking Member OBERSTAR for their work.

This legislation also includes provisions within the sole jurisdiction of the Committee on Commerce. They address important public health and safety matters, and do so in a manner that is fully bipartisan. I want to commend and thank Chairman BLILEY, Mr. TAUZIN, and Mr. BILIRAKIS for their efforts on these issues.

H.R. 2400 contains provisions reauthorizing the activities of the National Highway Traffic Safety Administration. The legislation contains the funding level requested by the Administration, and does two other important things.

One, it establishes a rulemaking for the next generation of motor vehicle occupant protection systems. This is designed to address the tragic problems we've seen with the current generation of airbags.

Second, the legislation corrects some flaws and anomalies in the formula used for calculating the domestic parts content of motor vehicles. This provision will give consumers more accurate information about the origin of their vehicles.

H.R. 2400 contains one other provision of special note. It will give States and communities certainty regarding the implementation of the new national ambient air quality standards for ozone and particulate matter.

These legislative provisions do not change Administration policy, nor do they address fundamental questions regarding these standards and their impact. They simply ensure that the Administration's schedule for these standards is met and that the necessary monitoring data will be gathered expeditiously without imposing any financial burden on the States.

In addition, we included language in the Statement of Managers to ensure that Administrator Browner carefully considers the recent recommendations of the National Research

Council regarding the national fine particle monitoring network which will be developed and deployed over the next two years.

This group of independent scientists urged EPA to ensure that the plans for this monitoring program are thoroughly peer-reviewed at an early date, while such a review can still inform the monitoring-network design and operation. The Statement of Managers endorses this reasonable and prudent step and I fully expect EPA to take the necessary steps to ensure that all aspects of the development of this monitoring network are in fact subject to peer review.

Beside making several minor technical changes, the Conferees made only one significant change to the original Inhofe Amendment as passed by the Senate. And that was to address an issue raised but not resolved by the Senate provision. Section 4102 not only calls for the establishment of a national network of fine particle monitors, it provides that areas will not be designated as nonattainment until States have the opportunity to review three years of data from these monitors. This guarantee was established by the President and adopted by EPA last summer. State submissions of programs to control fine particles are also delayed since they are triggered by the nonattainment designation process.

However, EPA's proposed regional haze program could short-circuit this timing by requiring States to make decisions regarding the control of fine particles before the necessary technical information from the monitoring network is available. Why? Well, as Administrator Browner has testified: "Like the new ambient air quality standards for fine particulates, the proposed rule for regional haze would similarly require the control of fine particulates." So since the two programs control the same pollutant and rest on the same technical information, even EPA has recognized that the two programs must be harmonized. To again quote Administrator Browner, "it is our intention to manage the two together" and "not to have regional haze go first, but to actually combine them." These comments have been echoed by the Administrator and other EPA officials in other forums and in the Agency's official writings.

However, there is a statutory glitch in EPA's efforts to harmonize the two programs. A provision in the Clean Air Act's visibility section requires State plans within one year after the visibility regulations are final. To address this statutory deadline, the Conferees added language to guarantee that the State submissions on regional haze will coincide with the State's fine particle submissions. As such, the provision implements EPA's stated policy regarding the timing issue.

(I would add that the provision is not intended to endorse or ratify EPA's proposed regional haze program and the Conferees took no position on the legality or prudence of any portion of the proposed regulations.)

Mr. Speaker, the Inhofe Amendment as modified by the Conferees represents a modest initial step to deal with the many issues raised by EPA's new air quality standards. I must promise with regret that this will not be the last time we will be before the House with legislation on this topic. Until that date, I urge members to support this first step.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. RAHALL), the ranking

Democrat on the Subcommittee on Surface Transportation, who has spent such an enormous amount of time on this bill, and I congratulate him on his work.

Mr. RAHALL. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in support of this conference report on this most historic piece of legislation.

For too long, this Nation has allowed its basic surface transportation system to deteriorate. For too long, we have witnessed unsafe road conditions contributing to the fatality and injury rate of the American public. And for too long, we have experienced our competitive posture in world commerce be adversely affected by an increasingly inefficient surface transportation network.

Today, we are making an historic move that this shall be no more.

This conference agreement to authorize Federal highway, highway safety, motor carrier and transit programs is the largest and most comprehensive surface transportation bills to be considered in the history of our Nation, and I am very proud of this legislation.

I am proud of our chairman, the gentleman from Pennsylvania (Mr. Shuster), and our ranking member, the gentleman from Minnesota (Mr. OBERSTAR). I am proud of our subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI). I am very proud of the staff that has worked virtually around the clock for the last 2 or 3 weeks to get this historic legislation to the floor of the House, and they deserve the highest words of praise as well.

Indeed, in dollar terms, this legislation will provide over \$200 billion during the course of a 6-year period for highway and transit facilities.

However, there is much more than just dollars in this legislation. It transcends considerations of the concrete, the asphalt, the steel and stone. Indeed, what we are doing in this legislation is improving our standard of living for our children in generations to come. It entails a type of legacy that we wish to leave future generations of Americans. It is an investment in America's infrastructure finally and foremost, rather than throwing money overseas.

So I approve of this legislation wholeheartedly.

We address safety. We address the environment. We address flexibility. We truly have an intermodal piece of legislation here, and I commend it to my colleagues for passage.

Safety. We are all concerned about the safety of our children and our families. This bill contains an impressive array of weapons to combat unsafe road conditions, and importantly, unsafe drivers. Road rage is on the rise in the country. Tempers flare as drivers are gridlocked in traffic snarls.

This bill will bring to bear a better financed Congestion Mitigation and Air Quality program that contains the keys to unlock that gridlock and sooth those flaring tempers.

With this bill, we are also escalating the war against drunk driving, including through a

\$500 million arsenal of incentives to the States to lower blood alcohol content standards.

The environment. Transportation is about much more than roads, bridges and highways. It is also about alternative means of moving people from place to place. The Transportation Enhancements Programs will experience a significant increase in funding for an expanded list of eligible projects that will serve to make the transportation experience more enjoyable for many Americans.

Innovation. Americans are innovative by nature, and this bill rewards that attitude in terms of both technology and financing.

Under it, intelligent transportation systems, maglev and other new transportation initiatives will be further advanced, and indeed, taken past the demonstration stage and placed into every day use.

Further, this legislation further promotes innovative financing approaches to transportation problems through a wide range of tools.

And finally, a promise. A promise that will now be fulfilled to the people of the Appalachian Region more than 30 years ago.

For the first time, the Appalachian Highway System will be fully incorporated into the Nation's highway program and financed by trust fund revenues.

This will provide a secure and dedicated source of funding for the unfinished segments of the Appalachian Development Highway System, opening impoverished areas greater accessibility and subsequent economic development.

In this regard, the inclusion of this program in this legislation is due to the efforts of West Virginia's senior Senator, ROBERT C. BYRD. And it will stand as his lasting legacy.

In conclusion, to the American motorist, know this. The taxes we pay every time we gas-up our vehicles will no longer be used for non-transportation purposes.

This bill contains an iron-clad, rock-ribbed, copper-riveted guarantee that fuel tax revenues will be spent on highway and transit improvements. We have built a fire wall around these revenues from which there will be no diversion.

My colleagues, I would be remiss if I did not express our appreciation of the chairman of the Committee on Transportation and Infrastructure, BUD SHUSTER, and for our ranking Member, JIM OBERSTAR, for their tireless efforts on behalf of securing fairness, equity and justice in the federal highway and transit programs as exemplified by this conference agreement.

These two gentlemen, along with Subcommittee Chairman TOM PETRI and myself, worked to uphold the principles espoused in the House bill during our meetings with the other body.

I must also commend the Secretary of Transportation. During the course of our deliberations over this legislation, Rodney Slater did not sit idly in his office. He rolled up his sleeves and got down to work with us to seek resolution of many, many difficult issues and decisions that were addressed.

I urge approval by the House of this conference report.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

At this time, I yield to my colleague, the gentleman from Arizona (Mr. STUMP), chairman of the Committee on Veterans' Affairs.

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

Mr. STUMP. Mr. Speaker, I rise in opposition to the conference report.

When this measure was before the House last month, it included a provision which stated that savings from veterans' programs should not be used to offset any costs associated with the bill.

The House also passed a second provision which I supported, instructing House negotiators not to use funds from changes in veterans' programs to pay for these projects.

The conference report ignores those provisions for the most part.

Mr. Speaker, over the past dozen years, the VA Committee has reported legislation changing veterans' programs and saving the American taxpayer over \$12 billion.

In addition, Congress has reversed veterans' spending created by courts in the Davenport and Gardner cases, leading to an additional billion dollars or more in savings.

When the Administration suggested that we repeal the windfall created by the VA General Counsel decision that requires the VA to compensate veterans with tobacco-related illnesses, the Administration projected that the repeal would save \$17 billion over five years.

The Administration also suggested that we spend only \$1.5 billion of that savings to enhance neglected programs serving veterans.

Unfortunately, the conferees have handed the Administration a victory by using all but \$1.6 billion of the \$17 billion in savings for purposes other than veterans' programs.

It's not right that less than 10 percent of those savings is being put back into the budget for veterans.

While this \$1.6 billion will be used to improve some of our highest priority veterans' programs, we should do better.

It's not right Mr. Speaker—vote against the conference report that takes too much from veterans' programs.

Mr. Speaker, for the information of my colleagues, I am including the following information on the issue of VA disability compensation for tobacco-related disabilities.

I also include an explanation of the proposed increase in benefits for veterans going to school under the Montgomery GI Bill and other benefit enhancements.

#### BACKGROUND AND DISCUSSION

##### LEGISLATIVE HISTORY OF PROVISION REPEALING VA TOBACCO COMPENSATION AUTHORITY

In January 1993, the General Counsel of the Department of Veterans Affairs, Mr. James A. Endicott, Jr., signed a memorandum addressed to the Chairman of the Board of Veterans' Appeals (BVA) which had as its subject "Entitlement to Benefits Based upon Tobacco Use While in Service." This memorandum was Office of General Counsel Precedent Opinion 2-93. Under applicable Department regulation (38 C.F.R. 14.507(b)), a "precedent opinion" is one that "necessitates regulatory change, interprets a statute or regulation as a matter of first impression, clarifies or modifies a prior opinion, or is otherwise of significance beyond the matter at issue." A precedent opinion is:

"Binding on Department officials and employees in subsequent matters involving a legal issue decided in the precedent opinion,

unless there has been a material change in a controlling statute or regulation or the opinion has been overruled or modified by a subsequent precedent opinion or judicial decision."

The precedent opinion arose in the context of an appeal to the Board of Veterans' Appeals by the surviving spouse of a veteran who died of adenocarcinoma of the lung and who had smoked a pack and a half of cigarettes per day for over forty years. In the opinion, the General Counsel held that the BVA could determine whether nicotine dependence may be considered a disease or injury for disability compensation purposes. It also held that "direct service connection of disability or death may be established if the evidence establishes that injury or disease resulted from tobacco use in line of duty in the active military, naval, or air service" and that "tobacco use does not constitute drug abuse within the meaning of statutes" prohibiting VA from considering drug or alcohol abuse as occurring in line of duty.

A subsequent decision by the BVA determined that the veteran's tobacco use while in service was an "event or exposure" that resulted some years after service in disease that produced disability and death. Accordingly, the claim of the surviving spouse was allowed.

The Compensation and Pension Service of the Veterans Benefits Administration (VBA) advised VBA field adjudicative units in a March 4, 1993 conference call to defer action on claims involving the use of tobacco products during active service. This moratorium on action lasted for four years until a January 28, 1997 directive was issued giving field adjudicative units instructions on how to process tobacco-related claims. In May of 1997, VA General Counsel Mary Lou Keener issued another precedent opinion addressing the circumstances in which VA could determine that tobacco-related disability or death that was secondary to in-service tobacco use was service connected for VA benefit purposes. That opinion held that if: 1) nicotine dependence could be considered a disease for purposes of laws governing veterans' benefits; 2) the veteran acquired a dependence on nicotine in service; and 3) that dependence was the proximate cause of disability or death, then service connection could be established on a secondary basis.

In May of 1997, Secretary of Veterans Affairs Jesse Brown transmitted a legislative proposal on behalf of the Administration to terminate the VA's authority to compensate or otherwise award benefits to a veteran for diseases or deaths attributable in whole or in part to the use of tobacco products by a veteran during military service. According to Secretary Brown's letter:

"This amendment is consistent with the 1990 budget reconciliation act, in which Congress prohibited compensation for disabilities which are the result of veterans' abuse of alcohol and drugs. This was fiscally responsible action which enhanced the integrity of our compensation programs, and our proposal regarding tobacco use is offered in that same spirit. In addition, claims based upon tobacco-related disorders present medical and legal issues which could impede ongoing efforts to speed claim processing by placing significant additional demands on the adjudicative system. This provision would not preclude establishment of service connection for disability or death from a disease or injury which became manifest or was aggravated during active service or became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of title 38, United States Code. This amendment would apply to claims filed after the date of its enactment."

The House Committee on Veterans' Affairs Subcommittee on Benefits held a hearing on May 14, 1997 on the VA's proposal. Testimony was received from veterans organizations and the Department. The Subcommittee made no recommendation on the proposed legislation.

In a letter dated September 19, 1997, (copy attached) VA Secretary-Designate Hershel W. Gober urged the Congress to take action on the VA's legislative proposal regarding tobacco-related benefits. In this same letter, Secretary-Designate Gober highlighted a new cost estimate of the impact of processing and paying tobacco-related claims. According to the Secretary-Designate, if VA could process all claims immediately, the cost of compensating veterans would be \$4.4 billion in fiscal year 1998 and \$23.8 billion over five years. It was estimated that VA could receive 540,000 tobacco-related claims, and that this would increase the VA's backlog of pending claims to over 1.5 million in fiscal year 1998, and that average processing time would increase from 113 days to 312 days.

A letter dated March 17, 1998 (copy attached) from VA Acting Secretary Togo West reaffirmed the Administration's position on compensation benefits for tobacco-related disabilities. It also noted that according to the President's budget submission "enactment of VA's proposal would result in FY '99 savings of \$741 million and five-year savings of \$16.9 billion."

In response to a question about the intent of the Administration's proposal, Acting General Counsel Robert E. Coy clarified the intent of the legislative language with regard to veterans with diseases that could be attributable to tobacco use or some other cause. Mr. Coy stated in his March 19, 1998 letter (copy attached) that:

"The Administration's proposal would in no way affect veterans' ability to establish service connection on the basis of any legal presumptions authorizing VA benefits. The Administration has proposed only that disabilities or deaths may not be considered service connected "on the basis that" the underlying diseases are "attributable in whole or in part to the use of tobacco products by the veterans during service." The effect of enactment of this proposal would be that if the *only* manner in which a disability or death could be considered service connected is "on the basis that" it is due to either the veteran's tobacco use or nicotine dependence in service, that avenue for establishing service connection would be foreclosed."

On March 30, 1998, Acting Secretary West transmitted a revised draft of its proposed legislation to the Congress (copy attached). Acting Secretary (now Secretary) West noted that:

"Like the consumption of alcohol, the use of tobacco products is not a requirement of military service. Most veterans, like most Americans, do not use tobacco products. It is inappropriate to compensate those veterans who do use tobacco, and their survivors, under a program developed for veterans who became disabled in service to our nation.

"In the debate which has ensued since our proposal of last May, we have heard no persuasive argument for why it should fall upon the government to compensate veterans for, or treat on a service-connected basis, disabilities first arising postservice whose only connections (sic) to service are the veterans' own tobacco use. *We do not believe the American people consider these to be the government's responsibility.* (emphasis added)."

In the VA Committee's report to the Committee on the Budget on the budget proposed for veterans' programs for fiscal year 1999, the Committee expressed the following view on the Administration's proposal:

"The Committee concurs with former Secretary Brown's concerns about the integrity of the compensation system. The Committee also believes that paying compensation to veterans for tobacco-related illnesses goes beyond the government's responsibility. There is a significant philosophical difference between service-connected compensation and other disability programs such as Social Security or the VA pension program which make no distinctions based on when a disability or illness occurs or is first diagnosed. Service-connected compensation, on the other hand, is based on the presumption that a person would not have the illness or disability save for some event or circumstance beyond the person's control. A policy of paying compensation for tobacco-related illnesses absolves the veteran of personal responsibility for his or her choices about tobacco use. In the past, Congress has determined that the individual, not the federal government, is responsible for illnesses which are related to the use of alcohol or drugs. Thus, a policy of paying benefits for illnesses related to the use of tobacco would be inconsistent with these prior determinations.

"The Committee is also very concerned that the projected annual caseload of 540,000 tobacco-related claims would overload the adjudication system and lengthen the already-too-long processing time for all types of claims. VA estimated in 1997 that processing time for an original compensation claim would increase from 113 days to 312 days.

"To reflect the nation's commitment to its veterans, the Committee will recommend legislation that will use all of the savings from enacting a limitation on compensation for tobacco-related illnesses to improve a wide range of programs. These are programs affecting our most disabled veterans, surviving dependents, separating service members, unemployed and under-employed veterans, and those seeking an education or a home."

Section 8203. Twenty percent increase in rates of basic educational assistance under Montgomery GI Bill. This provision would increase the current Montgomery GI Bill basic rate from \$440 per month to \$528 per month (chapter 30) beginning October 1, 1998, and the basic rate for the Selected Reserve Educational Assistance (chapter 1606). This is a 20 percent increase and follows the Administration's proposal.

Section 8204. Increase in assistance amount for specially adapted housing. This section increases the adaptive housing grants for severely disabled veterans from \$38,000 to \$43,000. The VA offers a one-time Specially Adapted Housing grant to certain severely disabled veterans so that they may purchase a home specially adapted to their needs or make modifications to current residences. The last increase was 10 years ago.

Section 8205. Increase in amount of assistance for automobile and adaptive equipment for certain disabled veterans. This increases the auto allowance for severely disabled veterans from \$5,500 to \$8,000 to account for the rising cost of automobiles. The VA provides a one-time payment toward the purchase of an automobile or other conveyance to certain veterans with a service-connected loss of one or both hands or feet or permanent loss of use, or permanent impairment of vision in both eyes. This would be the first increase since 1988.

Section 8206. Increase in aid and attendance rates for veterans eligible for pension. This section increases the monthly pension benefit by \$50 for severely disabled veterans in need of the full time aid and attendance of another person. This increase is intended to assist the increasing number of low-income veterans who will need alternatives to nursing home care over the next 15 years.

Section 8207. Eligibility of certain remarried surviving spouses for reinstatement of Dependency and Indemnity Compensation upon termination of that remarriage. This provision will allow all surviving spouses of veterans who die from a service-connected disability to resume their Dependency and Indemnity Compensation if their subsequent remarriage ends. This repeals an OBRA 1990 provision.

Section 8208. Extension of prior revision to offset rule for Department of Defense Special Separation Benefit program. The 1997 DOD Authorization Act prohibited VA compensation offsets on the gross amount of special separation bonuses (SSB) for those separating after September 30, 1996. This section would make that provision in the 1997 DOD Authorization Act retroactive to 1991. If a bonus recipient subsequently qualifies for VA disability compensation, current law requires VA to offset the entire amount of SSB, including amounts withheld as income tax.

THE SECRETARY OF VETERANS AFFAIRS,  
Washington, DC, September 19, 1997.

Hon. BOB STUMP,

Chairman, Committee on Veterans' Affairs,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: It is because of my deep concern about the impact that tobacco-related compensation could have on the integrity of the entire compensation system, coupled with the fiscal impact, that I am writing you to encourage your action on the VA legislative proposal regarding tobacco-related service connection. I am also concerned that this sizable influx of claims into our system will so significantly increase our backlog that veterans with non-tobacco related conditions will experience intolerable delays in the processing of their claims. These concerns are made eminently clear in our official estimate of the potential impact of compensating veterans for tobacco-related conditions which is transmitted with this letter.

This is an extremely complex estimate—one which has been taken up considerable time to develop. Contributing to its complexity is the number of assumptions that had to be made about veterans' health and mortality, veterans' smoking behavior, and most significantly, the rate at which veterans' tobacco-related compensation claims may be anticipated. I believe that the assistance provided us by Jeffrey Harris, MD, Ph.D., a nationally, known expert in the area of costs associated with tobacco-related diseases, was critical to informing our decisions. Dr. Harris' report is included as part of this package.

Although some of the many assumptions in our calculations could produce differing results, any reasonable calculation would know just how big an issue tobacco-related compensation is for VA, and for the Nation.

I want to highlight some significant points about the estimated cost and workload impact of tobacco-related compensation. If we could process all claims immediately, we believe that compensating veterans and survivors could cost an estimated \$4.4 billion in Fiscal Year 1998 and \$23.8 billion over the next five years. These estimates do not include the cost of benefits to survivors of already deceased veterans.

Realistically, we estimate that while we may receive over 540,000 tobacco-related claims, we will not be able to process them upon receipt. The backlog of all VA disability claims will increase from current 465,000 to over 1.5 million in Fiscal Year 1998, and increase steadily to over 2 million in Fiscal Year 2000. At the same time, the processing time of original claims will deteriorate from the current 113 days to 312 days.

Because of the backlog, the actual tobacco benefits paid will likely be \$40 million in the first year and \$1.9 billion over the next five years unless there is a significant reallocation of resources that would permit dramatic changes in the Veterans Benefits Administration's information technology and infrastructure, and allow for massive hiring and training of new VA employees.

I appreciate your patience in waiting for this estimate. We are also examining the impact of tobacco-related compensation on the VA health care system. Clearly, the service connection of substantial numbers of veterans for tobacco-related conditions that in most cases have intense and costly medical treatment associated with them has the potential for large numbers of newly eligible, high priority veterans to seek health care from VA.

I hope you will agree with me that the enormity of the impact on the claims backlog and on timelessness of processing as well as the fiscal impact, punctuate the critical need for prompt enactment of that legislation. I will be happy to personally discuss this with you, and VA staff are available to provide further explanation to Committee staff as desired.

I think that these estimates clearly explain why we should all be concerned about the implications of tobacco-related compensation. I look forward to the Committee's prompt action on the proposed legislation to remedy this situation.

Please let me know if we can provide additional information.

Sincerely,

HERSHEL W. GOBER,  
Secretary-Designate.

DEPARTMENT OF VETERANS AFFAIRS,  
Washington, DC, March 17, 1998.

Hon. BOB STUMP,

Chairman, Committee on Veterans' Affairs,  
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you and your colleagues on the House Veterans' Affairs Committee make final preparations to submit your Fiscal Year 1999 budgetary views and estimates to the House Budget Committee, I am taking this opportunity to highlight and reaffirm the Administration's position on compensation benefits for tobacco-related disabilities.

VA has proposed legislation to preclude service-connected benefit eligibility based upon diseases which first arise after service (and after any post-service presumptive period) if their only connection to service is the veterans' own use of tobacco products. VA's proposal would not preclude service connection for tobacco-related diseases actually manifesting themselves in service or within presumptive periods in law, and would apply only to claims filed after the date of enactment.

The Department's position is based upon several considerations. First, the responsibility to compensate veterans for diseases whose connection to service is the veterans' own tobacco use—in some cases only briefly—while in service, should not rest with the Government. Second, we believe that providing benefits in these cases exceeds the American public's sense of the Government's obligations to veterans, and so threatens to undermine support for VA programs. Third, if projections regarding the magnitude of future tobacco-related claims—perhaps as many as 540,000 in a year—prove anywhere near correct, without our legislation VA's claims system could be so overwhelmed as to seriously impair its ability to process claims of any kind in a timely manner.

As reflected in the President's FY '99 budget submission, enactment of VA's proposal would result in FY '99 savings of \$741 million

and five-year savings of \$16.9 billion. We appreciate your consideration of our views on this critical issue.

Sincerely,

TOGO D. WEST, Jr., *Acting Secretary.*

DEPARTMENT OF VETERANS  
AFFAIRS, OFFICE OF THE GEN-  
ERAL COUNSEL

Washington DC, March 1, 1998.

CARL COMMENATOR, ESQ.,

*Chief Counsel and Staff Director, Committee on  
Veterans' Affairs, Washington, DC.*

DEAR MR. COMMENATOR. You have requested that we provide, as a technical service, an explanation as to how the Administration's proposal to restrict service connection for certain tobacco-related disabilities and deaths would, if enacted, affect claimants' ability to establish service connection under certain presumptions in law and regulation. Specifically, you referenced a number of conditions presumed to be service connected if suffered by certain veterans exposed to ionizing radiation or herbicides I service.

The short answer is that the Administration's proposal would in no way affect veterans' ability to establish service connection on the basis on any legal presumptions authorizing VA benefits. The Administration has proposed only that disabilities or deaths may not be considered service connected "on the basis that" the underlying diseases are "attributable in whole or in part to the use of tobacco products by the veteran during service". The effect of enactment of this proposal would be that if the only manner in which a disability or death could be considered service connected is "on the basis that" it is due to either the veteran's tobacco use or nicotine dependence in service, that avenue for establishing service connection would be foreclosed.

The new §1103(b) of title 38, United States Code, as proposed in the Administration's bill, would specifically provide that this change in law would in no way preclude establishing service connection on the basis of the presumptions authorized under §§1112 and 1116 of title 38:

Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which . . . became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.

In other words, if a disability or death could be presumed service connected on the basis of the various provisions of sections 1112 and 1116, which of course include presumptions for certain radiation-exposed and herbicide-exposed veterans, the proposed limitation on establishing service connection "on the basis of" tobacco use in service would have no preclusive effect at all.

For example, as authorized by §1112(c), specified cancers may be presumed service connected if suffered by certain radiation-exposed veterans. If a veteran could qualify for service connection under such a presumption, as the Administration's tobacco legislation plainly states, that service connection and resulting benefit eligibility would be unaffected by enactment of the legislation. The same is true for all other presumptions in law, including the herbicide presumptions for respiratory cancers and other illnesses authorized by §1116 of title 38.

The result of enactment of our legislation would be to simply restore the manner and method by which VA adjudicated claims prior to issuance of the two General Counsel opinion on tobacco use and service connection.

I hope the foregoing is fully responsive to your request.

Sincerely yours,

ROBERT E. COY, *Acting General Counsel.*

DEPARTMENT OF VETERANS AFFAIRS,

Washington, DC, March 30, 1998.

Hon. NEWT GINGRICH,

*Speaker of the House of Representatives,  
Washington, DC.*

DEAR MR. SPEAKER: Enclosed is a draft bill, the "Veterans Tobacco Amendments of 1998", which I ask be referred to the appropriate committee for prompt consideration and enactment. It would relieve the Government of an unjustified liability for certain postservice health effects of veterans' tobacco use in service.

On May 9, 1997, VA submitted to Congress a draft bill whose provisions included a proposal bar to establishing service connection for disabilities or deaths if their only relationship to service were the veterans' inservice nicotine dependence or use of tobacco products. The enclosed draft is substantively identical to section 105 of the bill VA offered last year, introduced in the Senate as S. 987.

Our Nation has an enduring obligation to those who, because of serving in defense of our freedoms, become disabled or die. We at VA are privileged to be the ones who deliver on that obligation. However, Congress has recognized the appropriateness of boundaries to the compensation program. This bill is consistent with the 1990 budget reconciliation act, in which Congress prohibited payment of disability benefits for illnesses based solely on use of alcohol or drugs during military service. Like the consumption of alcohol, the use of tobacco products is not a requirement of military service. Most veterans, like most Americans, do not use tobacco products. It is inappropriate to compensate those veterans who do use tobacco, and their survivors, under a program developed for veterans who became disabled in service to our nation.

In the debate which has ensued since our proposal of last May, we have heard no persuasive argument for why it should fall upon the government to compensate veterans for, or treat on a service-connected basis, disabilities first arising postservice whose only connections to service are the veterans' own tobacco use. We do not believe the American people consider these to be the government's responsibility. However, our proposal would not preclude service connection for tobacco-related disabilities or deaths from diseases which actually manifest themselves during service or within any applicable presumptive period, and to this extent our bill is less preclusive than the alcohol- and drug-abuse prescription. Our proposal also is limited in its reach to claims filed with VA after its enactment. Thus, veterans and survivors currently receiving these benefits and veterans and survivors filing claims prior to enactment would not be affected by the change.

We are privileged to serve as stewards for veterans programs, which deservedly enjoy broad public support. With that stewardship, however, comes a responsibility to recommend appropriate changes when we sense they may become imperiled by something which could undermine public support for them. The estimated influx of tobacco-related claims—perhaps as many as 540,000 in the next year—threatens to overwhelm our adjudication system and result in unconscionable delays for all VA claimants. Because of the enormous implications it could have in terms of both costs and impact on claims processing, the current requirement that VA consider these smoking-related disabilities and deaths to be service connected carries the potential for just such programmatic harm.

This legislation would affect direct spending; therefore, it is subject to the pay-as-you-go (paygo) requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. As reflected in the President's Budget for FY 1999, enactment of this proposal would result in paygo savings of \$741 million during FY 1999 and \$16.9 billion over the period FYs 1999-2003.

The Office of Management and Budget advises that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the Administration's program.

Sincerely yours,

TOGO D. WEST, JR., *Acting Secretary.*

A Bill to amend title 38, United States Code, to provide that service connection for certain disabilities or deaths may not be established solely on the basis of inservice tobacco use or nicotine dependence.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. SHORT TITLE

This Act may be cited as the "Veterans Tobacco Amendments of 1998".

#### SECTION 2. PROHIBITION AGAINST VETERANS BENEFIT ELIGIBILITY BASED SOLELY UPON TOBACCO USE IN SERVICE.

(a) SERVICE CONNECTION.—Subchapter 1 of chapter 11 of title 38, United States Code, is amended by adding at the end the following new section:

##### "§ 1103. Special provisions relating to claims based upon effects of tobacco products.

"(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in line of duty in the active military, naval or air service for purposes of this title on the basis that it resulted from injury or disease attributable in whole or in part to the use of tobacco products by the veteran during the veteran's service.

"(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval or air service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 38, United States Code, is amended by adding the following new item after the item relating to section 1102:

##### "1103. Special provisions relating to claims based upon effects of tobacco products."

#### SECTION 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to claims received by the Secretary after the date of enactment of this Act.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, I believe that the Chairman of the Veterans' Affairs Committee has indicated that he is not supporting this piece of legislation. I heard my colleague say that this is a social safety net. Well, what we need to know that just got paved over are low-income, disabled veterans who had a funding in this bill. It was only \$500 million, but it was a chance to create a permanent program for low-income, disabled veterans to get what we said they deserve.

Mr. Speaker, the reason I wanted to enter into a colloquy is that if they are not allowed to use the tobacco money, is it not true that there are a number of excess acres and VA sites around the country, my understanding is, on Wilshire Boulevard in Beverly Hills? How ironic that this land is not being used for the veterans, but they want to preserve it for a greenbelt, and yet we are taking veterans' money to pave over areas for highways.

Would the Chairman look at the excess acreage in veterans' holdings to try to provide money for long-term care for veterans?

Mr. STUMP. Mr. Speaker, if the gentleman will yield, first, the gentleman is absolutely correct. We do have that property, and I make a proposition that we will look into it. We are being shortchanged in this bill. We are getting back less than 10 percent of this for veterans' savings, and that is simply not fair to the veterans of this country.

Mr. THOMAS. Mr. Speaker, reclaiming my time, frankly, as a Member of this side of the aisle, to say that the President said we should take this money away from veterans certainly is no reason to do so as far as I am concerned.

Mr. SHUSTER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. NUSSLE), representing the conferees on behalf of the Committee on Ways and Means.

Mr. NUSSLE. Mr. Speaker, I want to thank the chairman for yielding me this time and for his leadership on this bill.

As the lead House conferee on the revenue title of H.R. 2400, I want to begin by thanking the Speaker for the honor of leading the House of Representatives as the conferee on the House tax title. In particular, I would also like to thank the chairman of the Committee on Ways and Means for his assistance and leadership and guidance during this conference, as well as staff members Jim Clark, Norah Mosely and Ben Hartley of the Joint Committee on Taxation and Rich Meade on my staff.

The provisions of this title I think are important, first of all, because it continues the Highway Trust Fund, the mass transit account, for an additional 6 years through the fiscal year 2005. As many of my colleagues know as well, I, along with the gentleman from Missouri (Mr. HULSHOF) and many others, worked to include in the conference report a continuation of the Federal Government's commitment to a clean-burning, renewable fuel, such as ethanol, until the year 2007.

This conference report also simplifies the matter in which gasoline and diesel fuel tax refunds are administered. This is welcome news to registered fuel terminals and those who seek a simplified refund procedure for motor fuel excise taxes.

Railroads currently face an onerous fuels tax which was imposed in the name of deficit reduction a number of

years ago. This conference report begins to roll back those taxes by 1.25 cents per gallon starting in November of 1998.

More than half of the taxes sport fishermen and other users of motor boat fuels pay are not used for aquatic resources, but instead was dedicated for "budget deficit reduction." This conference report takes a big step towards dedicating those revenues for aquatic resources restoration and development.

Mr. Speaker, the gentleman from South Dakota (Mr. THUNE) worked very hard to include a provision in the conference report to allow Amtrak more flexibility to use their funds in States where Amtrak does not operate. This provision will allow States such as South Dakota to enhance their rail service in their States.

Finally, Mr. Speaker, the conference report expands the tax-favored treatment to employer-provided transit passes and van pooling. More specifically, the conference agreement would allow employers to offer their workers the option of electing cash compensation in lieu of any qualified transportation benefit. In addition, the inclusion for transit passes and van pooling benefits is increased by \$100 per month beginning in 2002.

I want to again thank the chairman of the Committee on Transportation and Infrastructure for his leadership. I want to thank my fellow conferees.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

I yield to the gentlewoman from California (Ms. STABENOW).

Ms. STABENOW. Mr. Speaker, I thank the ranking member.

It is my understanding that the Department of Transportation has entered in Full Funding Grant Agreements with 15 transit agencies nationwide. FFGAs are commitments by the Federal Government to provide funding for a project according to a schedule established by the agreement.

In my region, the San Francisco Bay Area Rapid Transit District worked for more than 10 years to put together the financing package necessary to gain a full funding grant agreement. Our region has committed significant State and local resources for the BART-to-San-Francisco Airport and Santa Clara County Tasman projects, both of which have FFGAs.

Is it correct that the intent of this conference report is to meet the full funding grant agreements that have been signed by the DOT?

Mr. OBERSTAR. Mr. Speaker, reclaiming my time, as explained in the report accompanying H.R. 2400, the Committee on Transportation and Infrastructure "emphasizes the importance of fulfilling the Federal commitment to projects under full funding grant agreements at page 201 of report 105-467."

Ms. STABENOW. Mr. Speaker, I thank the gentleman.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. DAVIS of Virginia. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Virginia.

Mr. DAVIS of Virginia. Mr. Speaker, as we know, language was included in the House bill, H.R. 2400, which would have directed the Commonwealth of Virginia Transportation Board to resolve funding issues relating to rights-of-way acquisition and engineering overruns associated with segments of the Fairfax County Parkway.

Mr. Speaker, is it the intent of the legislation that this provision be applicable?

Mr. SHUSTER. Mr. Speaker, reclaiming my time, I concur with the gentleman's comments. I am aware of the situation. I would hope that this problem would be rectified before any other legislative action is necessary.

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentleman, and I thank him for his leadership on this matter.

Mr. SHUSTER. Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. LIPINSKI), a distinguished member of our committee.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman for yielding to me, and I would like to enter into a colloquy with both the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. SHUSTER).

This pertains to Wacker Drive, which is a two-level road structure that runs through central downtown Chicago. It is a major arterial road for business operating in downtown Chicago. Without Federal funding, lower Wacker Drive will have to be closed in 3 or 4 years.

I would also like to talk about the Stevenson Expressway. It is an interstate that runs through the 3rd Congressional District in Illinois. It is in dire need of reconstruction. Without adequate Federal funding, the reconstruction effort will take 4 years. With adequate Federal funding, it will only take 2 years, saving 2 years of congestion and traffic headaches.

The State of Illinois and the City of Chicago would like to begin construction of these projects using its own funds, applying \$175 million to the Stevenson Expressway and \$400 million to the Wacker Drive project.

It is my understanding that, under section 115 of title 23, the United States Secretary of Transportation has the authority to allow a State or city to begin a project with non-Federal funds and then be reimbursed by the Highway Trust Fund discretionary funds.

Would the ranking member of the committee and the chairman support application of the State of Illinois and the City of Chicago to proceed in this manner?

Mr. OBERSTAR. Mr. Speaker, reclaiming my time, not only would I support the application and urge the

Secretary to approve this proposal to fund these two worthwhile projects, I have already discussed this matter with the Secretary. We have his attention, and we will work very closely and vigorously with the gentleman.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. SHUSTER), the chairman of our committee.

□ 1715

Mr. SHUSTER. Mr. Speaker, I would emphasize that under the formula in this legislation Illinois gets \$203 million a year more than it was getting under ISTEA, and there are very substantial additional State funds also available.

Mr. LIPINSKI. Mr. Speaker, I thank the chairman of the full committee, and I also want to thank the ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia (Mr. WISE), a member of the committee and one of our conferees.

Mr. WISE. Mr. Speaker, there has been a lot said about veterans. The veterans are definitely on all of our minds today.

Let me just say that the membership should be aware that working with the gentleman from Ohio (Mr. NEY), working with others, we were able to include in this bill a sense of Congress resolution that the Attorney General should have commenced a civil action to seek to recover from the tobacco companies those amounts corresponding to the costs which would be incurred by the Department of Veterans Affairs for the treatment of tobacco-related illnesses of veterans if such payments were authorized by law, and also that the Congress could authorize those payments then to be given to those veterans who have been affected.

This is only a first step, but it is an important step, because it puts the Congress on record requesting the Department of Veterans Affairs and the Attorney General to enter into this litigation on behalf of our veterans and our taxpayers.

Upon the return of Congress after Memorial Day, a number of us will be introducing a free-standing bill to accomplish this as well, as well as working with many of the others of the Members to make sure that we are able to secure some level of benefits for those veterans that have had tobacco-related illnesses from their military service.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I would congratulate the chairman and the ranking member of both the full committee and the subcommittees for a job well done. This bill is definitely not just an expenditure, it is an investment in the future of this country. I view it as that.

I do, however, take exception with one small portion of the bill that I am

greatly concerned about. That is cutting into title XX, which is clearly under the jurisdiction of the Committee on Ways and Means. There are \$3 billion that are taken out of that program.

Also, the flexibility has been reduced in order to get a budgetary advantage. That is going to require some damage control, and I would tell my colleagues, where the Governors and State legislatures all over this country are going to be very delighted and very happy with what we are going to pass today, but they are going to be coming back and to be very upset with title XX, which is a very important program to all the people across this country.

Mr. OBERSTAR. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER), a member of the committee.

Mr. NADLER. Mr. Speaker, this bill, which has many good features, unfortunately is going through this House in great haste. Very few people have had the opportunity to read it, since I do not even know how many copies are in print.

One of the problems with that, one of the problems with the fact that the bill was not printed until an hour or two ago is that people can slip things into this bill with other people not knowing about them.

There is in my district a project, a huge boondoggle which wants to waste a few hundred million dollars. We have had language in every appropriations bill in this House for the last 5 years saying no funds herein appropriated should be spent on this boondoggle. The Porkbusters Coalition, headed by the gentleman from Wisconsin (Mr. NEUMANN) and the gentleman from Minnesota (Mr. MINGE) have said this is the worst project. NBC TV featured it on *Fleecing of America*, but it is a project Donald Trump wants because it will put money in his pocket. It puts more money in his pocket. It will spend \$300 million to move a highway we just finished rehabbing for \$90 million, solely for the purpose of getting it out of the way of sightlines of Mr. Trump's new buildings.

We oppose this. Suddenly there is money in this bill for this project. It appeared in it last night. We just found out about it. It was put there by a Congresswoman whose district comes nowhere closer than 75 miles, and no one knew this. No one can comment on it.

The chairman tells me the mayor supports it. That is not my information, but who can check it in this time? This is the wrong way to proceed. I hope that this money is not completely wasted.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute, and I yield to the gentleman from Indiana (Mr. VISCLOSKY).

(Mr. VISCLOSKY asked and was given permission to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to engage the gentleman from Minnesota in a

colloquy. I would say to the gentleman from Minnesota (Mr. OBERSTAR), is it the intent of the conferees that the authorization for section 332(a)(96), the Westlake Corridor Commuter Rail Link, include authorization for the acquisition of eight commuter rail cars for the South Shore Railroad?

Mr. OBERSTAR. Mr. Speaker, I would tell the gentleman, it is, indeed, and the statement of managers confirms that intention in that language.

Mr. VISCLOSKY. I thank the gentleman.

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, the conference report before us today marks a major achievement in providing the developments that are needed in our Nation's transportation infrastructure.

I want to congratulate the chairman and the ranking minority member on the committee, and in New York and in communities across the United States our highways, bridges, transit systems will be far better off because of this bill. That is the good news.

The bad news is that this bill does not go nearly far enough in making the streets safer from the horrible tragedy of drunk driving, a crime that claims more than 16,000 Americans, and injures countless more every year.

First, let me say that I am very pleased that this bill contains provisions to encourage States to crack down on repeat drunk drivers. Too often, convicted drunk drivers find their way right back behind the wheel of a car to commit their crime again. I introduced repeat offender legislation last year after the tragic death of my constituent, Burton Greene, and I am pleased that Congress is finally taking action in this area.

As many of my colleagues know, however, I had also hoped that the conference report would contain the Senate-passed provision to ensure that the United States, like other industrialized nations, adopt a national uniform DWI standard of .08 blood alcohol content.

Regrettably, this Chamber was silenced by the Republican leadership from voting on that lifesaving measure last month. Even though the .08 provision enjoys strong bipartisan support in the Senate, the Republican leadership did bow to pressure from the powerful liquor lobby and bottled the bill up in the Committee on Rules, and killed it in the conference.

This outcome was an outrage, but not a surprise. Mothers Against Drunk Driving have big hearts but small wallets. On this bill, it came down to a battle between big hearts and deep pockets, and the deep pockets won. The liquor lobby pays a lot for the privilege of writing our Nation's drunken driving laws, and today, unfortunately, they got what they paid for.

So here we are today with a compromise of a targeted incentive program to encourage

states to adopt the .08 standard. While the measure is better than current law, history tells us that incentives alone will not be enough to match the power of the alcohol industry in state houses across the country.

On behalf of the mad Moms and mad Dads of Mothers Against Drunk Driving, Advocates for Highway and Auto Safety, and all the medical and law enforcement experts who lobbied on behalf of .08, I want to make clear that this is not the end. This is not the last time Congress will consider the .08 issue. We will be back, and we will continue to fight to make .08 the law of the land. We will continue to insist that our Nation's drunk driving laws are written by medical and safety experts—not the liquor lobby.

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just want to observe that the bill that we bring back from conference is a very strong bill on the blood alcohol level .08 issue. There are very strong real dollar incentives for States to adjust their laws to the .08 level.

This reflects a longstanding position in this body of providing incentives rather than penalties. I can only speak from experience myself with the National Driver Register, that where I started out with legislation that was mandatory 15 years ago to require States to participate in the National Driver Register, I adjusted that to make it a voluntary participation. Today every State in the Nation is a participant in the National Driver Register, and over 300,000 bad drivers with multiple records are being caught and kept off the roads.

We can, through incentives, produce good results, even better results than through punishment or penalties. This bill is strong on incentives. It is a good bill, it is good on safety. We ought to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, it has been said that this bill has a sense of the Congress resolution that if there is a tobacco settlement, that funds from that settlement should be used to restore benefits for veterans which are being cut in this bill.

To me, that is like promising to bring somebody back to life after you have shot them. It just seems to me that that language is clearly a fig leaf. It is about as useful as the previous sense of Congress resolution which was in the original highway bill when it left the House. That sense of Congress language said that the conferees should not cut veterans, and yet they did. So I think we can see that a new sense of Congress resolution in this proposal is not worth the paper it is printed on.

Let me also say that I think we ought to understand that we are about to go home on Memorial Day and rub shoulders with veterans' groups all over the country, and tell them, yes, sirree, boys, we really appreciate what you done for us, and yet, we are about

to stick them with a \$16 billion reduction in veterans' health care.

We are also about to say to seniors who need home-based services for the elderly, we are about to say to families who need help to deal with foster children, we are about to say to women who need child care, we are about to say to them, we are going to cut you by one-third in the social service block grant.

I have a letter which I received from 49 Members of this House just 2 weeks ago asking us to maintain the full level of funding for the same title XX services which this committee cuts by \$2 billion. I want to see how many Members are going to vote for this bill today, and then go home and tell their veterans that they are for veterans' health care, and go home and tell their seniors that they are for home health care, and go home and tell women of this country who need child care help that we are going to cut that block grant by 20 percent. I just do not think we ought to do it.

I would point out there are 1,800 special projects in this bill. That is 80 percent more than we have provided in the history, in the 42-year-history, of this highway bill, and we are even providing \$120 million to build a shiny new road through Canada.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, that was the question I was going to ask. I remember around here when we had the Lawrence Welk restoration that caused a lot of people a lot of heartburn. Why are we building, for my own information, why are we building a highway in Canada? Are we going to take Canada in, or what is the story?

Mr. OBEY. Mr. Speaker, I know the gentleman from Minnesota (Mr. PETERSON) was thinking of attaching part of Minnesota to Canada, but I did not know it was going to be accompanied by \$120 million for a highway for our Canadian friends. You will have to ask somebody who favors it.

Mr. HEFNER. Could I ask some of the proponents of the highway bill, which I tend to support, but I do not like explaining a Lawrence Welk type boondoggle, if that is what it is, what is the rationale for it?

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. It is my understanding this is a defense highway which connects Alaska, as a result of a treaty which exists with Canada. So it is a treaty provision. That is the reason for it.

Mr. OBEY. I would simply say, Mr. Speaker, that I think the national defense of the United States needs a new highway in Canada about as much as each of us needs a case of pneumonia.

I would suggest that I do not think our taxpayers are going to be very im-

pressed by that explanation. Let me simply, in closing, read one paragraph from the American Legion. It says, "Members who support rescinding future veterans' benefits to pay for roads and other projects should be ashamed of their actions. It is unfortunate that Congress is willing to redirect veterans' monies to pay for highways and mass transit. This is truly disturbing, since CBO estimates there will be a \$636 billion surplus. On the eve of the Memorial Day weekend," the American Legion says, "remember that a government which cuts veterans' benefits relinquishes the right to ask its citizens to serve in the Armed Forces to protect the country. This is especially true when their government shares responsibility for their service-connected disabilities, their illnesses, in the first place."

□ 1730

I agree with that and that is why, Mr. Speaker, if I have the opportunity, I will be offering a motion to recommit which would eliminate the cuts in veterans benefits that are proposed in this conference report.

Mr. Speaker, I yield back the balance of my time.

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I yield myself 1 minute.

It is all well and good to complain about policy and about mistakes or projects that one disagrees with, but we ought to do so on the basis of fact. It is just simply fact that in order to get to one part of Alaska from another part of Alaska you have to go through Canada. It is just that simple. I have been there. I know it.

Furthermore, this is not without precedent. In order to relieve flooding in North Dakota and Minnesota, many years ago the Congress approved flood control works in Canada in order to relieve pressure in the United States on North Dakota and Minnesota and the Red River Valley. So there are many other things that my good friend from Wisconsin could justify he may be opposed to, but I do think we ought to express the facts.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, would the gentleman tell me how many Canadian citizens use that highway every year versus how many U.S. citizens use the highway?

Mr. OBERSTAR. It is for the benefit of Alaskans and other travelers from the lower 48 States who come to Alaska for tourism.

Mr. Speaker, I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

We have already made the arguments for this historic piece of legislation. I am particularly pleased not only that

it was passed in the Senate just some minutes ago, 88 to 5, but also that the President of the United States has stated this afternoon, and I quote, that he will be "pleased" to sign this legislation.

I want to recognize the tremendous cooperation we have received from the administration. Secretary Slater; OMB, about to become the director there Jack Lu, Michael Deitch; Larry Stein at the White House, Chuck Brain at the White House have really provided tremendous cooperation, and we would not be able to be here today but for their help.

This has been a bipartisan effort. I particularly want to recognize Jack Schenendorf, our chief of staff. He deserves the Congressional Medal of Honor for the kind of skill and management expertise and capability that he has provided throughout, as well as the staff, which literally have been without sleep for the last few days: Roger Nober, Debbie Gebhardt, Chris Bertram, Adam Tsao, Susan Lent, Darrell Wilson, Linda Scott, John Glaser, Mike Strachn, Bill Hughes, Charlie Ziegler, Trisha Law, Mary Beth Will, Jimmy Miller, Kathy Guilfooy, Denise Beshaw and, indeed, I must emphasize the tremendous cooperation and support we received from the Democratic staff as well.

In fact, I hesitate to call it the Republican staff and the Democratic staff, because we have worked together as one on a bipartisan basis for the good of the country. Certainly the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from West Virginia (Mr. RAHALL), the gentleman from Wisconsin (Mr. PETRI), members on both sides of the aisle on our committee have worked very hard and have brought this bill to the floor. Indeed, we recall that it passed through the House 337 to 80.

And particularly for some who are concerned about the guarantee, let me point out that, really, the guarantee is less than we wanted to accomplish in the House. We wanted to take the trust funds off budget, but we had an overwhelming vote to do that. Seventy-five percent of the Republicans voted in favor of doing that. So this is historic legislation, puts the trust back in the trust fund. I urge its adoption.

Mr. QUINN. Mr. Speaker, although I am unable to cast my vote today for this legislation due to prior family commitments, I am pleased to voice my support for H.R. 2400 the Transportation Equity Act for the 21st century, or TEA 21.

I would like to thank all of the conferees for their leadership in making this bi-partisan legislation a reality. This is truly an historic day for the United States of America. TEA 21 is a magnificent work which addresses many transportation related concerns.

For example, this bill contains the most comprehensive anti-drinking and driving measures ever put into legislation. The people in my district will see the results of the significant steps this Congress will be taking to combat drinking and driving. This bill reauthorizes the

discretionary bridge program. This program will give our states the tools to replace or repair our crumbling bridges. The bill authorizes funds for the Rails to Trails program, access to jobs, school bus safety, and many other important programs. And of course the legislation takes care of specific district priorities.

I have worked with community leaders of the 30th district of New York over the past 2 years to find out what they needed to better the quality of life in our community. I submitted that list, along with over 400 of my house colleagues, to the committee for their consideration. Fortunately, for my district the Committee saw fit to authorize some of the things I requested.

In the last six years, there have been two severe accidents on the same road in Buffalo, New York. Both of these accidents resulted in the loss of several lives. H.R. 2400 provides us with an opportunity to fix that stretch of road by creating a shoulder for disabled vehicles. This bill allows me to receive funding for that priority. Can anyone in this Chamber tell the families of the victims of these horrific accidents that this is pork? That it is an unnecessary project? Can anyone in this Chamber tell the New York State Thruway Authority, who has asked for funds to correct this problem that it is unworthy?

In closing, this is a good bill. It covers a variety of needs in the sphere of transportation. It will rebuild our crumbling roads and bridges and in turn make our nation's highway's safer. This is my third term, this is my first opportunity to authorize our nation's transportation policy. I only wish, for the sake of the families who have suffered losses on my district's highway's over the past 6 years, that it could only have come sooner.

Vote to rebuild our nation's roads and bridges. Vote for the safety of our highways. Vote Yes for the TEA 21 Conference Report.

Mr. STARK. Mr. Speaker, H.R. 2400, the "Building Efficient Surface Transportation and Equity Act (BESTEA)" bill is a highly needed piece of legislation. Every member of Congress wants to be able to go back to his or her district over the Memorial recess and give their constituents new roads and improved public transportation. I would be as proud as the next member to go back to California's 13th District and give them millions of dollars for road repairs and improvements—if it was not a deceptive form of Congressional pork and budget busting.

This legislation authorizes approximately \$216 billion in federal highway and transit assistance over a six-year period. This bill is too large and too complex to agree to when the whole process went awry. When Congress agrees to "Save Social Security First" but votes to spend a bloated highway bill—filled with various pork barrel projects—then Congress is deceiving the American people.

The proposed funding in the BESTEA bill will deny states block grant funds for social services. Three billion dollars has been taken from programs that would have otherwise gone to services for children without health insurance, the disabled and the impoverished.

The BESTEA legislation unjustly denies \$15.5 billion in benefits to veterans for disabilities relating to tobacco use in the military—a service-connected disability—to fund highway construction projects. I will not tell veterans that we would take away an earned benefit—that we would deny them of a healthy and productive lifestyle—to pay for potholes.

Like every member of Congress, I realize the importance of safe roads and bridges and its impact on public health and safety. But unlike most members, I will not sacrifice children and welfare recipients to pave America's streets. I will not vote for H.R. 2400.

Ms. VELÁZQUEZ. Mr. Speaker, first and foremost, I want to thank the Transportation and Infrastructure Committee, particularly Chairman SHUSTER, Chairman PETRI, Ranking Member OBERSTAR, and Ranking Member RAHALL, for their monumental work in completing this historic transportation legislation. Throughout the process both they and their hard working staff were responsive to our inquiries and carefully considered our transportation project proposals.

Two of the projects authorized in H.R. 2400, Building Efficient Surface Transportation and Equity Act, involve major repairs and reconstruction of Flushing Avenue. This roadway spans through various communities in Brooklyn and is known as a linking gateway to economic development. By funding these projects, we will improve and preserve a roadway that not only links people, industry and commerce across Brooklyn, but across New York City.

The infrastructure improvements are long overdue for these communities. The work involved includes: removal of old trolley tracks (some parts of the Avenue are cobblestone); setting of new concrete bases (some parts of the Avenue have never had road bases); new street surfacing; and curbs and sidewalks rebuilding that is necessary from the road reconstruction work, particularly for the commercial residents. This project is part of the effort to bring economic development and opportunity to the area.

Under the \$3.75 million project, two segments of Flushing Avenue in Williamsburg and Bushwick would be reconstructed and resurfaced in one of the authorized projects for the people of the 12th District. One segment runs between Humboldt Street and Cypress Avenue and is lined by businesses, public housing units, and other residential buildings. Another segment falls between Porter Street and Cypress Avenue and is lined by commercial establishments and residential buildings.

Another Flushing Avenue segment to be reconstructed and resurfaced with \$2.25 million is equally important for the economic development and quality of life of Bushwick and the adjoining Ridgewood community. The segment falls between Wycoff Avenue and Gates Avenue and is lined by businesses, many mom-and-pop shops, supermarkets, a hospital, a post office, and 2–6 family-size homes.

Mr. Speaker, I also rise today on behalf of myself and my distinguished colleague from New York, Congressman TOWNS. Today is a very important day for the residents, small businesses, neighborhoods, and public facilities of our respective congressional districts. We have worked tirelessly for years with the communities in Brooklyn surrounding the Gowanus Expressway to find the best answer to the congestion and crumbling condition of this major highway, which is a key component in the New York area's transportation network.

The people living and businesses operating every day in these areas have patiently asked that a full study of alternatives to the planned reconstruction of the Gowanus Expressway be performed. For the economic viability of the area and the environmental health of the families living near this planned reconstruction, it is

crucial that the impact on the surrounding communities be adequately assessed.

The Building Efficient Surface Transportation and Equity Act finally responds to the pleas of these New York neighborhoods. H.R. 2400 authorizes \$18 million dollars for New York State to conduct a Major Investment Study (MIS) of the Gowanus Expressway Corridor. None of these funds may be used to supplement or finance any part of the currently proposed rehabilitation and reconstruction of the highway. The intent of the funding is to provide for an MIS to determine the short and long term social, economic and environmental benefits and costs of different alternatives to rebuilding the current elevated highway—including a tunnel.

The MIS will include Phase I to IV civil engineering and design documents so as to accurately determine the initial and long term fiscal, environmental, social and economic costs of replacing the current elevated structure of the Gowanus with a tunnel. This analysis will include a complete engineering study, including hydro-geologic study and the cost of tunnel connectivity with bridges and tunnels adjacent to the corridor.

Using the methodology devised in the "West Brooklyn Traffic Calming Study" CMAQ proposal, the MIS will devise mitigation measures to reduce current and future traffic diversions from the Gowanus Expressway in adjacent neighborhoods. Additionally, the MIS will include an assessment of service improvements to all subway lines needed to produce an increase in ridership and reduction in motor vehicle traffic in the Gowanus corridor before, during and after the reconstruction of the highway. Upon completion of the MIS and tunnel alternative study, any remaining authorized funds should be held for the future planning and design phase of the Gowanus project.

The Gowanus MIS Project is part of a sound national and regional transportation policy. With this proposal, the Gowanus neighborhoods are one step closer to a real solution to this long-standing local transportation dilemma. This project is not only about transportation—it is also about the economic development and empowerment future of our communities.

In sum, these transportation projects represent a new era for Brooklyn. No longer should we approach the economic support of these communities with a narrow scope. All components—good schools, safe neighborhoods, reliable public services, clean air and water, and safe roads—must come together for a serious revitalization and urban development strategy.

Ms. DELAURO. Mr. Speaker, I would like to join in congratulating my colleagues, particularly Chairman SHUSTER and Congressman OBERSTAR, for their hard work in bringing BESTEA to the floor. This legislation is critical to the upkeep and development of our Nation's transportation system.

I am particularly pleased that innovative financing for highway and mass transit projects has been included in this legislation, which I worked for in the House. Innovative financing will help fill annual transportation funding shortfalls by using limited federal dollars to attract private capital for the construction of federal highways and worthy transit projects. For every \$100 million invested by the government, we can attract \$1 billion in private capital.

BESTEA is also good for Connecticut. It creates true "equity" for the state of Connecticut. In addition, as part of Connecticut's overall funding, this legislation contains funding that will enable the City of New Haven to begin work on I-95 at Long Wharf. This project will enhance the safety of this section of I-95 between New York and Boston, improve access to high speed rail, and recommend New Haven to its harbor front.

I urge my colleagues to pass BESTEA. It's good for our Nation's transportation system. It's good for workers. And it's good for commerce.

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to this Conference Report. This Conference Report is a far cry from the bill this House passed in April.

I voted for the House passed bill on the assurance that the formula for reallocating the money from the Federal Gasoline Tax would be fair and equitable to all and take into consideration the unique concerns of states like New Jersey.

But the Conference Report has New Jersey losing federal dollars. For every \$1 paid in Federal Gasoline Tax by a citizen of New Jersey, the State of New Jersey will receive only .93 cents back from the Federal Government.

This is unacceptable. New Jersey ranks near the bottom in the nation in the ratio of federal money returned from federal taxes paid by our citizens. This Conference Report adds insult to injury.

I voted for the House passed bill in April to settle the tough budget issues in Conference, to create a bill that is responsible to states like New Jersey, to ensure that veteran and other vital programs were not sacrificed and to move the process along. I am sad to say that the Conference Report failed to resolve any of these keys issues.

#### NEW JERSEY

My state of New Jersey is the economic crossroads of the northeastern United States. If it moves by truck, train, or ship chances are it moves through New Jersey.

New Jersey is unique in many ways to other states. Our infrastructure is older, has more wear than other states and intensely urban. Our highways are traveled by more and more people through the northeast crossroads. New Jersey is also the most densely populated state in the nation.

The previous ISTE had New Jersey's unique needs in mind. From 1992 through 1997, New Jersey received \$1.03 back on every dollar paid.

The loss of 10 cents on the dollar is unacceptable. This is not a good deal for New Jersey. New Jersey can no longer be a siphon for money for other states.

The House passed bill took this into consideration. But this Conference Report reduces New Jersey's funding below the level that is acceptable. My "no" vote is to register my disagreement with the Conference.

#### VETERANS

In the bill that passed in April, this House strongly stated that No Veterans benefit or service would be reduced or eliminated to pay for any part of the bill.

On May 20, 1998, this House voted 422 to 0 to instruct Conferees not to allow any Veterans benefit or service would be reduced or eliminated to pay for any part of the bill.

On two occasions, this House stood up for our nation's veterans. But now, the Con-

ference Report eliminates the benefit for veterans with tobacco related illnesses to pay for the bill.

And now we find that the Conference has decided to use a higher estimate of costs of the benefit for veterans with tobacco related illnesses by the OMB that puts the cost at \$17 billion. (The CBO says it is around \$10 billion if that much.)

Of that \$17 billion of those so-called savings \$15 billion will go to pay for this bill. The extra \$2 billion was promised to be directed toward disability and education programs.

Does that mean \$2 billion this year, next year, over six years? How much for disabilities? How much for education? There are too many questions and not enough answers.

As my friends from the South say, "This dog don't hunt." Now regardless of how you feel about paying for veterans with tobacco related illnesses, I have my questions on the merits, but the fact is: The House stated on two occasions, almost unanimously, that this bill would not cut veterans programs but in the end it does by billions of dollars to pay for other government programs. I personally would like to see all the savings from paying for veterans with tobacco related illnesses to be directed back into the VA to pay for a veterans health program that they were promised.

So here we are, just a couple of days before Memorial Day, ready to vote to sacrifice those who have already sacrificed for all of us. Is this really the vote we want to make before Memorial Day? Is this really the vote we want to make after this House said not on the same question twice before?

#### SOCIAL SERVICE BLOCK GRANTS

The Conference Report takes \$2.4 billion from Social Service Block Grants and directs it to transportation spending. These important grants are vital to New Jersey in providing for Child Care, Meals on Wheels, aid victims of domestic violence, aid to the disabled citizens, and emergency food to the homeless. I might add that New Jersey has one of the highest number of homeless veterans in the nation. Social Service Block Grants are a key element in providing assistance to the most vulnerable parts of our community. This is another unacceptable part of this Conference Report.

For the reasons I have described, I can not support this Conference Report and I urge a "no" vote.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I rise today in strong support of the conference report on H.R. 2400, the Building Efficient Surface Transportation and Equity Act, (BESTEA). A historic piece of legislation which will impact positively on just about every Congressional District.

I want to thank the Chairman and Ranking Democrat of the Transportation and Infrastructure Committee, Mr. SHUSTER and Mr. OBERSTAR for their commitment and leadership in fashioning the BESTEA Conference Report in time for it to be considered before the Congress embarks on the Memorial Day District Work Period. This isn't a perfect bill but is the best compromise that could have been gotten under the circumstances.

Had I had the opportunity to write this Conference Report, Mr. Speaker, I would have written it differently. I am inexorably opposed to the fact that, as I understand it, this Conference Report uses funding from certain Veterans disability payments for smoking related ailments to help pay for the bill. I am ashamed

that this had to occur and pledge to work with my colleagues in the House to do all we can to restore this cut.

But my support for this Conference Report is based, in no small measure, on the fact that for my constituents in the Virgin Islands, this Conference Report and the funds that it will provide, will mean that we will be able to go forward with many of the important road projects which are so critically important to our economy.

In conclusion Mr. Speaker, I want to also thank Mr. RAHALL for his work on this Conference Report and his assistance in making sure that the U.S. offshore areas were treated equitably in this bill. I urge my colleagues to support passage of this bill.

Ms. FURSE. Mr. Speaker, I rise in support of the conference report on H.R. 2400 which is before the House. First, I want to give credit to the dean of the Oregon delegation, PETER DEFAZIO, for his good work attending the needs of Oregon and the entire Pacific Northwest. He has been a source of guidance and support since I was elected in 1992, and I will miss working with him in Congress. My colleague from across the Willamette River, Mr. BLUMENAUER, has also worked hard on behalf of our region and deserves credit for his efforts on this bill.

This bill invests in our nation's future because it makes our intermodal transportation needs a propriety for the next six years. I am lucky to represent a beautiful part of the country that is a national model for incorporating effective land-use planning in our long-term transportation plans. Oregon's future, a vision with less traffic and vibrant commerce, depends in no small part on regional and state land use decisions, as well as federal support. In my district and across the state, decisions emphasize corridor and zoning planning and are predicated on an integrated transportation system. Ultimately, transit and road networks work hand-in-hand to continue what we believe is an unparalleled quality of life. We are fortunate in Oregon, and this conference report helps us continue our innovations at the state level.

I am pleased that the bill today authorizes completion of the Westside Light Rail project, one of my top priorities in Congress for the last six years. The Westside Light Rail project needs an appropriation of \$36.6 million to be completed on time this year, and this legislation authorizes those funds. I am also pleased that this bill includes \$3.5 million to obtain standard fixed-route buses for services increases associated with the opening of the Westside Light Rail project in September. In addition, BESTEA includes authorization of the South-North Light Rail project, a key part of our region's 2040 long-term transportation plan.

While this bill includes our region's important light rail and transit priorities, it also includes a number of other projects that are so important to the future of my district. It includes planning funding for the Tualatin-Sherwood Bypass and the Newberg-Dundee Bypass. I have worked to gain federal support for the Newberg-Dundee Bypass for four years, and am pleased that it will finally receive some funding under this bill. I hope the state and the entire region will follow suit and finally realize how important the Newberg-Dundee Bypass is to Yamhill County's future.

This legislation also includes nearly \$3 million to help Astoria, including funding to pre-

pare for the Lewis and Clark Bicentennial. It will allow for improvements at two intersections along Highway 101 which have chronic safety problems, as well as provide seed money for a future intermodal transportation center. This bill also includes funding to reopen the Astoria Railroad Line, a vital transportation connection to the Port of Astoria. It is my hope that these funds will help create jobs in Astoria and prepare for the upcoming Lewis and Clark celebration.

I am also pleased that this bill includes funding for two highway projects in Washington County, one of the fastest growing regions in the entire Pacific Northwest. It includes funding to upgrade the I-5/Highway 217 Kruseway Interchange which is a constant source of traffic headaches for motorists in our region, as well as funding to improve commuter access and widen the Murray Road Overpass. These projects will greatly enhance access and safety in two critical commercial centers in my district.

Finally, the BESTEA conference report includes two important legislative provisions that I have been working on over the last year. As Co-Chair of the Diabetes Caucus, I worked with my colleague, Mr. NETHERCUTT, to overturn a 28-year-old Federal Highway Administration prohibition on people with insulin-dependent diabetes operating commercial vehicles in interstate commerce. This legislation takes steps to reverse this discriminatory regulation. In addition, this conference report includes technical language I authored in the Commerce Committee to reinstate an exemption from the National Highway and Traffic Safety Administration's vehicle importation regulations for vehicles imported for show or display. I am pleased that these provisions are included in the final conference report.

I thank Chairman SHUSTER and Ranking Member OBERSTAR for their hard work on this legislation. Once again, I want to express gratitude on behalf of all my constituents to Oregon's members of the Committee, Mr. DEFAZIO and Mr. BLUMENAUER, as well as their staff members Kathie Eastman and Elizabeth Humphrey. I urge my colleagues to support passage of the conference report.

Ms. NORTON. Mr. Speaker, I rise today to discuss the historic transportation bill being reported out of conference today. This bill will provide badly needed assistance to communities across the country struggling to maintain and repair the transportation infrastructure which is the lifeblood of our nation's social and commercial activities.

I commend the conferees for including the Disadvantaged Business Enterprise program in this bill. This affirmative action program for contractors in the transportation industry will ensure that all Americans have an opportunity to participate in the construction and other activities envisioned by this legislation. The Disadvantaged Business Enterprise Program, also known as the DBE program, is fair, constitutional and, most importantly, it works. It is a tribute to the Congress that it is included in the bill before us.

Despite ample evidence that the DBE program is necessary and effective, there are still some who apparently wish to ignore the need for this program. Along with the House Transportation and Infrastructure Committee report accompanying this bill, nine members of this body filed additional views in which they criticized the DBE program and expressed their

view that it is not needed. The fact is, however, that I, and the majority of my colleagues, disagree with this assessment. If we did not, the DBE program would not be included in this bill.

The authors of the House committee's additional views made several serious factual misstatements. The most serious misstatement is that there is no evidence of discrimination in the transportation construction industry before the Committee on Transportation and Infrastructure. This could not be more false. The fact is that there is a raft of evidence of discrimination in the transportation construction industry—and many related industries. Moreover, much of this evidence has been formally presented to Congress. In order to set the record straight, I want to make sure that my colleagues are aware of at least some of the volumes of evidence of the persistence of discrimination. It is beyond the scope of a brief floor statement to detail all of the evidence that exists with respect to discrimination, but I must mention at least some of the most important and probative evidence.

Evidence of Discrimination Presented to Congress:

In the Additional Views section of the House committee report entitled "Additional Challenges", the authors contend that based upon existing case law, the DBE program raises significant constitutional questions for the following reasons:

- (1) No evidence was presented to the Committee that actual discrimination has occurred within the transportation construction industry;
- (2) No evidence has been presented that race neutral remedies were attempted and found deficient;
- (3) No evidence was presented justifying the program on a nationwide basis;
- (4) No statistical evaluations have been presented justifying the program in any given market; and
- (5) No evidence has been presented justifying the fact that the program does not include a procedure for individualized inquiries into whether a particular DBE has suffered from past discrimination.

The first four claims are similar to claims made by Adarand Constructors before the district court after the Adarand case was remanded from the Supreme Court. The court rejected these contentions when it stated that Congress had a compelling government interest in adopting the statutory provisions that support the DBE program. Consistent with current precedent, the court agreed that Congress had a unique role as a national legislature which permitted it to address nationwide problems with nationwide legislation. The court also found that Congress had considered the use of race-neutral measures before adopting the statutory provisions supporting the DBE program. The fifth claim ignores the provisions in the current DBE regulation that permit challenges by a third party to the certification of a DBE as disadvantaged. Furthermore DOT's proposed rules revise the current regulation to include an even more rigorous certification of disadvantage.

In the Adarand remand, the district court reviewed an extensive record of hearings, reports, testimony and statistics that had been presented to Congress in the twenty years since Congress first amended the Small Business Act in 1978 in order to provide that small businesses owned by socially and economically disadvantaged individuals have the

“maximum practicable opportunity” to participate in federal contracts and subcontracts. That record included material from the time period when Congress first enacted a 10% goal for disadvantaged business enterprises in the Surface Transportation Assistance Act in 1982, through the continuation of the DBE program in 1987 in the Surface Transportation and Uniform Relocation Assistance Act (STURAA) and its renewal in 1991 in the Intermodal Surface Transportation Efficiency Act (ISTEA). The court noted that on numerous occasions Congress had received testimony and evidence, as well as annual reports from the Small Business Administration, regarding the discriminatory barriers faced by minority businesses and the continuing need for remedial efforts to address such discrimination. The court concluded that this record met the constitutional standard by providing a “strong basis in evidence” from which Congress could conclude that significant discriminatory barriers faced minority businesses.

The Department of Justice highlighted the extensive number of hearings held by Congress on the subject to racial discrimination and minority businesses when it published in the Federal Register. “The Compelling Interest for Affirmative Action in Federal Procurement: A Preliminary Survey” as an appendix to Proposed Reforms to Affirmative Action in Federal Procurement (DOJ Appendix). 61 Fed. Reg. 26042 (May 23, 1996). At that time, Justice identified at least 29 hearings on this subject between 1980 and 1995. Congress has continued to hold hearings on this issue and an update of this list shows an additional eleven Congressional hearings through the end of 1997 on the same issue.

Some of the testimony that has been offered most recently is very relevant to the DBE program. While there have been a great many statements on the subject, I will quote only one here. On April 30, 1996, Assistant Attorney General for Civil Rights, Deval L. Patrick, testified before the Committee on Education and Labor about the ongoing need for affirmative action. In his testimony he discussed many types of discrimination but his comments about discrimination against minority and women entrepreneurs is especially important in this context. Mr. Patrick stated:

Congress has repeatedly reviewed and supported the SBA's program, as well as those of some other agencies, such as the Department of Transportation, to aid small and disadvantaged businesses. In doing so, Congress recognized the need to help such firms combat the effects discrimination has had on their ability to develop in our economy. A few facts demonstrates Congress's wisdom.

While minorities make up over 20 percent of the population, minority-owned businesses are only 9 percent of all U.S. businesses (U.S. Commission on Minority Business Development, Final Report 2-6 (1992)). The minority-owned firms that do exist have, on average, gross receipts that are only about one-third those of nonminority firms (id. at 4). Similar inequities apply to women-owned businesses. Women own nearly 20 percent of all businesses with employees and a third of all small businesses but received less than 3 percent of federal procurement contract dollars in 1994 (Expanding Business Opportunities for Women, The 1995 Report of the Interagency Committee on Women's Business Enterprise, at 3, 11, January 1996; see also 1992 Survey

of Women-Owned Businesses. U.S. Department of Commerce, Bureau of the Census (1996)).

Discrimination in the critical ability to secure necessary capital persists; white business owners in the construction industry receive over 50 times as many loan dollars per dollar of equity capital as African American owners with identical borrowing characteristics (Grown & Bates, Commercial Bank Lending Practices and the Development of Black Owned Construction Companies Journal of Urban Affairs, Vol. 14, No. 1, 34 (1992)). Recent studies have shown that limited access to capital has had a similarly negative affect on firms owned by women, and that due to that lessened access to capital more women than men finance businesses out of their own resources (Expanding Business Opportunities for Women at 8).

Discrimination occurs in both private and public contracting. Disparity studies completed by state and local governments after the Croson decision routinely found that minority-owned businesses are locked out of public contracting markets. After the Croson decision, many states suspended affirmative action business program, with a devastating effect on minority business. In Richmond, in the absence of affirmative action, minority participation in construction dropped from 40 percent of all contracts to less than 3 percent (U.S. Commission on Minority Business Development, Final Report at 99 (1992)). Similar falloffs occurred in Philadelphia (97% decline), Tampa (99% decline for African American-owned businesses and 50% for Hispanics), and San Jose (minority participation fell from 6 percent to 1 percent in prime construction contracts) (ibid).

In private industry, discrimination is even more pronounced. Both minority and women-owned firms report that they are routinely unable to secure subcontracts on private work where there are no affirmative action requirements, and that white owned prime contractors even reject minority or women-owned firms that offer the lowest bid.”

Beyond the record of various Congressional hearings, there is further evidence supporting Congress' determination to continue to use of the DBE program. In 1992, the Final Report of the U.S. Commission on Minority Business Development concluded that the severe under representation of minorities in business was caused by discrimination and benign neglect. The Small Business Administration's State of Small Business report in 1994 stated that in 1992, minorities owned 9% of all business, but only received 4.1% of federal contracting dollars. The 1992 Economic Census: Survey of Minority-owned Business Enterprises published in 1996 by the Department of Commerce revealed a similar ratio of minority owned construction firms to receipts for such firms. In 1994, the House Committee on Government Operations found that minority-owned firms face particular difficulties in the construction industry which is dominated by “old buddy” networks and family firms and tends to exclude minority firms. H.R. Rep. No. 870, 103d Cong., 2d Sess. (1994).

The DOJ Appendix described in some detail the discriminatory barriers to minority contracting opportunities, evidence of which is found in studies and reports issued by congressional committees, executive branch commissions, academic researchers and state and local

governments. Such evidence demonstrates that discrimination works to preclude minorities from obtaining the capital needed to form and develop a business because of discrimination by trade unions and employers as well as lenders and that minority firms are denied full and fair contracting opportunities because of discrimination by private sector customers, prime contractors, business networks, suppliers and bonding companies. As described in the DOJ appendix, much of this evidence has been presented to Congress and has been the subject of Congressional hearings, particularly in the area of discrimination by lenders and surety bonding companies.

Additional Evidence:

The fact of the matter is that there is a great deal of additional evidence that is available to Congress in less formal forms. Every day each of us receives evidence of national needs from our constituents and from studies and articles we discover in our efforts to represent those who elected us. Some of this evidence is not presented formally in hearings or Congressional reports—but it is evidence all the same and it informs the work we do. I do not have time here to outline all of the evidence of discrimination in transportation construction that has come to my attention, but I would like to mention a few of the more recent studies and writings. Perhaps the most important source of information comes to us from the numerous disparity studies that have been completed in communities across this Nation. Over one hundred and fifty of these studies have been completed and many have dealt with transportation construction contracting. I will describe just a few of these studies and their conclusions here.

A study of the historical record of minority and women-owned business enterprises in public and private contracting in New Jersey submitted to NJ Transit and the Governor's Study Commission on Discrimination in Public Works Procurement and Construction Contracts by the Afro-American Studies Program of the University of Maryland at College Park in August of 1992 states: “Despite extraordinary efforts to promote equal opportunity in employment and other areas of social and economic life in New Jersey, significant inequalities remain. One persistent area of inequality is business ownership. Many minority group members and women lack access to key channels for entry into business ownership. Some of these blocked paths are the direct result of specific policies by the state in the past to favor white-owned firms or the indirect result of inaction on the part of the state to prevent discrimination that ultimately has resulted in an underutilization of the potential business talents of women and minority citizens of New Jersey. The record of these actions and inactions . . . strongly supports the (re-) introduction of race- and gender-specific remedies to fulfill the state's own constitutional mandate to promote equality of opportunity to all its citizens.” (NJ Transit, University of Maryland at College Park study at 32.)

A study of the Executive Office of Transportation and Construction for the Commonwealth of Massachusetts performed by D.J. Miller and Associates (DJMA) in March of 1994 states that “there is ample evidence of discrimination against African Americans, Latinos, other minority groups, and women.” In addition, the report's executive summary states that “[t]he information revealed in the disparity study leads

DJMA to conclude that a sufficient inference of discrimination can be made from this factual predicate to warrant the implementation of a race-conscious procurement program." (DJ Miller study at ES11.)

A study of the Fort Worth, Texas Transportation Authority by Browne, Bortz and Coddington (BBC) issued in November of 1993 concludes that "[t]he combined quantitative and qualitative evidence of discrimination against minority and woman-owned firms forms a sufficient factual predicate for remedial action by the Fort Worth Transportation Authority. Race and gender-neutral remedies should be considered, but the study team concludes that they alone will not be sufficient to fully remedy the effects of past and present discrimination. Therefore, a basis exists for the Transportation Authority to consider narrowly-tailored race and gender-based remedies." (BBC, Fort Worth Transportation Authority study, at ES11.)

Of course, disparity studies are only one source of data about discrimination. One recent report also deserves special mention because it deals exclusively with affirmative action in public contracting and because a summary of this report was sent to every member of Congress. In late 1996, the Urban Institute released *Do Minority Owned Businesses get a Fair Share of Government Contracts?* The answer to the question posed by the study was a resounding "no." The report was based upon the evidence contained in 58 disparity studies commissioned by various state and local governments and demonstrated wide statistical disparities between the share of contract dollars actually received by minority- and women-owned firms and the share those firms should have received. These disparities are very important evidence. In the Croson decision the Supreme Court made clear that "gross statistical disparities" will be considered "prima facie proof of a pattern or practice of discrimination" in contracting.

The report found that minority firms received only 57 cents for every dollar they would be expected to receive based upon their availability. While this statistic is shocking, it should be no surprise to those of us in Congress who for years have been hearing evidence of the discrimination against women and minority entrepreneurs. For specific racial groups the disparities were even greater: African-American-owned firms received only 49 cents on the dollar, Latino-owned firms received 44 cents on the dollar, Asian-American owned firms received 39 cents on the dollar and Native American-owned firms received 18 cents on the dollar. In addition the report found that women-owned firms received only 29 cents of every dollar they would be expected to receive based upon their availability.

The report also provided information about the disparities in construction contracting, work which quite often includes transportation construction contracting. In the construction arena minorities received only 61 cents for every dollar they should have received given their availability. Women received only 48 cents on the dollar. The statistics were even more disheartening for certain minority groups. For instance, African American owned firms received only 56 cents for every dollar they would be expected to receive based on their availability—Asian owned firms received only 60 cents on the dollar.

What we must all remember is that these statistics—disturbing as they are—represent a

world in which there are the kinds of affirmative action programs that some would have us end. Without affirmative efforts like the DBE program, the situation would be far worse. For example, the Urban Institute report found that the disparities between minority- and women-owned firms and other firms were more pronounced in areas in which no affirmative action contracting program was in place. When only areas and years in which affirmative action is not in place are considered, the percentage of awards to women falls from 29 percent of what would be expected in 24 percent. For African Americans the percentages dropped from 49 percent to 22 percent, for Latinos the percentage dropped from 44 percent to 26 percent, for Asians from 39 percent to 13 percent, and for native Americans from 18 percent to 4 percent. These figures clearly show that affirmative action programs are not only effective, but they are also still desperately needed.

Statistical evidence—the primary focus of the Urban Institute report—must be considered in combination with other social science evidence and anecdotal evidence provided by those involved in the contracting process. In addition to documenting statistical disparities, the Urban Institute report reviewed the social science literature and the disparity studies to determine the challenges confronted by disadvantaged firms.

The study notes that the social science literature reveals several areas in which minorities may confront barriers in their efforts to form businesses. First the study notes that minorities tend to have lower incomes, less wealth, and limited access to financial markets. A second area of disadvantage involves minorities' limited access to business networks and the relative lack of family members who are self-employed or run a business. Minorities may also be disadvantaged by lower levels of educational attainment and less experience in business relative to their white counterparts. The report also notes that minority firms may face limited access to wealthier white customers due to discrimination by white customers and residential segregation.

Finally, the study points out that the individual disparity studies contain a huge number of anecdotes about discrimination. According to the study, barriers early in the contracting process may include: failure of the government to break down large contracts into smaller components which could increase the participation of smaller minority-owned firms; restricting affirmative action solely to subcontracting and thus limiting the opportunity of minority firms to work as prime contractors; abuse of good faith waivers; and inadequate prosecution of "front" firms. Barriers during the bid solicitation stage include: use of closed or private requests for bids; failure to advertise bids in minority media; failure to notify minority firms of bidding opportunities; provision of incomplete bid specification information to minority firms; and untimely notification of minority firms of bidding opportunities. Barriers during the evaluation of bids include: discrimination in pricing by suppliers; "bid shopping;" and renegotiating specific projects in order to manipulate the process in favor a majority firms. Finally, the report notes that there is anecdotal evidence of barriers during the actual execution of contracts including: exclusion of minority firms by prime contractors after contracts have been awarded; slow payment of

amounts owed to minority firms; and project sabotage.

The bottom line is this: there is a vast amount of evidence of discrimination against minority and women owned firms in America. This evidence exists in both the transportation construction arena, and in markets (such as finance and bonding) which are directly related to the construction industry. All of this evidence provides this Congress with a compelling interest to address discrimination through the enactment of the Disadvantaged Business Program.

#### Other Errors in the Additional Views

Finally, I cannot complete this statement without noting the misleading pattern of factual misstatements and omissions in the Additional Views in the House committee report filed by my distinguished colleagues. The section of the views entitled "History of the DBE Program" obscures the fact that the Department of Transportation has proposed extensive changes to its own program regulations to improve and strengthen the DBE program. Some of the regulations referred in this section are not DOT's regulations, but instead regulations issued by the Small Business Administration. Moreover, the Additional Views represents these SBA regulations as final and they are not. The SBA regulations issued in August of 1997 are proposed regulations which have not yet been finalized. The Department of Transportation's proposed regulations were issued in May of 1997.

The section of the Additional Views entitled "Effect of the Adarand Court Decisions" states that the courts have made it clear that federal affirmative action programs "must be restructured to provide targeted remedies to only those who have been the victims of specific discrimination." This assertion is incorrect. Seven of the nine Justices recognized "the unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country" [emphasis added] and reaffirmed the government's authority to address this problem. The majority opinion in Adarand is consistent with the longstanding understanding of affirmative action programs that, when members of a group have been discriminated against on the basis of their race, then members of that group may benefit from affirmative action measures even if they themselves have not made specific showings of injury due to discrimination. The assertion made in the Additional Views, that individual members of racial groups may benefit from affirmative action only if they prove that they themselves have suffered discrimination, was simply not the position of the Court.

In order to be correct, the section entitled "Challenge to the Subcontracting Compensation Clause" should note that the subcontracting compensation clause provision was not implemented to comply with the DBE program as asserted in the second sentence of this paragraph, instead it was developed to comply with the contracting requirements of the Small Business Act. Moreover, the argument made before the Tenth Circuit was not that the program should be evaluated under "lenient" scrutiny, but under the "intermediate scrutiny" standard which had been upheld by the Supreme Court prior to its decision in Adarand.

In the section entitled "Application of the Strict Scrutiny Standard" the Additional Views

state: “[c]ase law stipulates that the only compelling governmental interest for race preference if the remedying of past discrimination.” This statement is flatly incorrect. First of all, the Court has clearly held that the government has a compelling interest in addressing not only past discrimination, but also present discrimination. Second, there are also suggestions in the case law that diversity may constitute a compelling government interest for the use of race-based affirmative action measures in certain contexts such as higher education.

In this same section, my nine distinguished colleagues repeat the completely untrue assertion that the Sultan of Brunei would qualify for the DBE program. The presumptions of social and economic disadvantage under the DBE program are rebuttable, not absolute. The Department of Transportation maintains a system under which any person, whether or not they are directly involved in the DBE program may challenge the certification of a firm as a DBE. The existing rule has a specific procedure to accomplish this. Moreover, the proposed rule would institute a mechanism to make challenges easier to bring and would allow recipients to hold an application in abeyance while deciding a challenge. If the Sultan of Brunei—or anyone with substantial wealth—were ever erroneously certified as a DBE, the Department would take steps to decertify that firm. The Department has taken such steps in the past, and will undoubtedly do so in the future. Opponents of this program are simply wrong when they state that the Sultan of Brunei qualifies for the DBE program. He does not. Moreover, the proposed regulations issued by the Department of Transportation would impose even tighter restrictions on the economic status of DBE owners by imposing a personal net worth test.

A similar—but even more misleading—point is made in the section entitled “Additional Concerns Regarding the Presumption of Economic Disadvantage.” Here, the Additional Views quotes the Department’s proposed regulations in a grossly inaccurate way. Quoting two sentences as if they appear consecutively in the rule, the section complains that the Department is not doing anything to economically target the benefits of the program. In truth, the section is worse than misleading—it intentionally omits the intervening sentence which clearly changes the focus and meaning of the paragraph:

“However, in order to have relevant information to enable them to make determinations about whether there should be inquiry into the disadvantage of applicants, the applicants would have to submit a signed certification that they are socially and economically disadvantaged and a brief summary statement of their personal net worth, which the recipient would have to keep confidential.” (Federal Register Vol. 62, No. 104, May 30, 1997, page 29565.)

The import of this sentence, which the authors of the Additional Views apparently wanted to obscure, is that the Department is taking action to ensure that recipients have the information necessary to be certain that only those who are truly economically disadvantaged benefit from the DBE program.

The section entitled “Houston Metro” is also misleading. The Department of Transportation has worked hard to collaborate with Houston Metro to find a workable solution to the prob-

lem caused there by the court case brought by the Houston Contractors Association. In fact, in a recent hearing a distinguished member of the Republican leadership who represents Houston, commended the Administrator of the Federal Transit Administration, Gordon J. Linton, for the “cooperation” and “creative” efforts made by the Department in responding to the Houston situation. It is important to understand that despite having twice filed motions to intervene, the Department of Transportation is not a party to the case involving Houston Metro. Despite this, the Department has assisted Houston Metro in developing a race-neutral program to replace its DBE program during the pendency of the injunction. In addition, the Department recently extended the exemption it has provided to Houston Metro until October 31, 1998 in order to ensure that funds continue to flow and projects are not unnecessarily disrupted while Houston appeals the district court’s decision.

Finally, the paragraph entitled “Monterey Mechanical” does not belong in a Committee report expressing views on a federal affirmative action program. The Monterey Mechanical case does not address the DBE program—in fact it does not address any federal program. It is not a case based upon the Supreme Court’s holding in *Adarand*, but instead deals with the Court’s opinion in *Crosen* and the recent enactment of Proposition 209 which is relevant only to California. Similarly, in the section entitled “Additional Challenges” the vast majority of the cases referred to do not deal with the Department of Transportation’s DBE program. In fact, most of the cases listed appear to deal with state and local program, not federal programs.

I thank my colleagues for their attention to those important issues. The fact of the matter is this: affirmative action and equal opportunity are far too important to be left to the mercy of political rhetoric masquerading as legislative history. The existence of discrimination in the transportation construction industry in this nation is clear—and the legislative record should be clear as well.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 2400, the BESTEA Conference Report. This legislation represents an important step in revitalizing our national infrastructure.

H.R. 2400 contains a number of provisions that are of special concern to my constituents. I am pleased that adequate funding was included for these proposals, of particular interest are the Phalen Corridor Initiative and the Shepard Road Upper Landing Interceptor Project.

The Phalen Corridor Initiative is a congressionally designated project in BESTEA. This Initiative is an innovative infrastructure project. The Initiative is an excellent example of what BESTEA is all about, a multipurpose intermodal system that will help revitalize the east side of St. Paul and carry the Minnesota urban transportation network into the 21st century.

The Phalen Corridor Initiative presents an opportunity to position the Twin Cities area and the State of Minnesota at the forefront of innovative transportation development efforts. The Initiative has already been recognized as “a model for urban renewal.” The Phalen Corridor Initiative also emphasizes the role of infrastructure plays on the overall health of our national economy, environment and community development. The 4,000 jobs will likely result which are expected to achieve a \$7 mil-

lion annual reduction in public assistance expenses putting people to work. This Phalen Initiative is built within the framework of a dramatically changing industrial and railway core and will revitalize bootstrapping a new vibrant economic development and importantly reinforcing existing manufacturing business and job housing, and the recreation amenities which are a vital part of such interfaces.

The Shepard Road Upper Landing Interceptor Project initiative is a multimodal transportation interceptor project. Included within this project is a multimodal facility to accommodate public and private transit service, pedestrian pathways between the Mississippi River and downtown St. Paul, a bicycle hub for commuters and recreational riders, a ride sharing hub and a bus staging and dispatching area for busses serving visitors to the immediately adjacent St. Paul Civic Center, Science Museum of Minnesota and downtown St. Paul cultural attractions.

The Shepard Road Upper Landing Interceptor Project site is a gateway site critical to the redevelopment of the five mile segment of Mississippi riverfront which is the focus of a multi-year redevelopment strategy.

Mr. Speaker, H.R. 2400 also contains an important compromise on a national wilderness area in Minnesota, the Boundary Waters Canoe Area Wilderness (BWCAW). The BWCAW, the most popular wilderness in our entire wilderness system, has regrettably been the target of controversy and attacks over the past four years. Legislation has been introduced to increase the number of motorboats allowed in the wilderness; to remotorize three portages; to keep open the portion of Sea Gull Lake now scheduled to be closure next year and to turn over to a locally dominated board the management of this national treasure.

In light of the anti-environmental record of the Republican Majority Congress over the past four years, these proposals in my mind’s eye represent a very real threat to the BWCAW. While some of the more egregious proposals have been dropped, the House and Senate were poised to act on legislation that would reopen three portages and maintain over 2,100 motorboats on 3,000 plus acres of Sea Gull Lake. Passage on such legislation was highly probable and would have delivered a devastating blow to the BWCAW resource.

Against this backdrop, I fortunately reached a good-faith agreement with Congressman Oberstar on the BWCAW. We have differed on this issue and the policy path and the loan for over two decades. My primary concern is protecting the BWCA wilderness to the maximum extend possible. This compromise accomplishes such goal. Under the agreement, Four Mile Portage will not be motorized and effective January 1, 1999, most of Sea Gull Lake, and all of Alder, and Canoe Lakes will be closed to motorboats. That represents over 3,000 acres of lake surface permanently closed to over 2,100 motorboats and an agreement which defuses the motor portage issue which unresolved promised continued polarization and attacks that would in the final analysis seriously damage the BWCAW resource.

As the Forest Service implements this agreement, they should look to the Resources Committee positive actions this year on H.R. 1739. During the consideration of this measure, amendments were adopted to insure that only those portages that were motorized in

1992 can be motorized under this compromise; that limits motorized portages solely to trucks and trailers and not to other commercial operations and importantly to prevent federal subsidies from private portage services. The Forest Service should most certainly look to these provisions in determining Congressional intent.

Mr. Speaker, the BWCAW has been the subject of extensive debate and numerous hearings in Minnesota and Washington, D.C. over the past four years, including Subcommittee and Committee deliberations. While I would have preferred a different process, the BWCAW process is far more open than the homogenized budget, tax, authorization and spending measures that are so commonplace over the past four years. I support this provision of H.R. 2400.

Mr. Speaker, I would have preferred that this BWCAW issue not be addressed in this forum, but the policy has been the product of open debate and extensive hearings the past four years and a flash point for much longer—the criticism of the process belies the merit of this compromise which reduces the number of motor boats in wilderness and keeps on track the nearly 3,000 acres of Sea Gull Lake, over 2,000 motor boat permits a year out of wilderness—at the same time permitting 2 portages to be motorized the equivalent of 274 days of motor use between lakes which are all permitted to have motor boat use and the number of permits will not go up regards this circumstance and change furthermore they are almost all being used today some at over 100% utilization.

The measure before the House H.R. 2400 represents a positive use of the gas tax revenue.

A major problem arises because the 1993 budget anticipated that the increase of 4.3 cents was for deficit reduction. The Congress determined later to transfer the money to the highway trust fund that means that over a five or six year period that we will experience an overall budget short fall. This deficit and the outlay budget issue is further complicated by the fact that over economic projections haven't been updated.

I certainly hope that the dire predictions being espoused by some today do not come to pass and believe that we can avert some of this problem. No doubt that some of the earmarked projects in this measure will raise questions and should, but all each of us can do is point to the screening procedure and the hearings that most were subject to through the House committee.

Importantly this will provide significant funds for our state regarding highways and transit, this will provide an unprecedented amount of funds for these purposes and flexibility to the states and local communities to make the decisions as to the expenditure priorities of such funds raised by the national government. Also provided are continued commitment of funds for enhancement programs and mitigation programs, the goal is to help innovative expenditure of transportation including bike path trail purchases and other amenities that have become a very important program in our communities and the mitigation funding which reduces congestion, erects sound barriers, limit adverse impacts on our air quality. These programs attempt to address the full impact of motor vehicle traffic upon our environment and rectify and limit the adverse health consequences.

In any legislative matter this comprehensive we are faced with many policies that deserve more attention, indeed there are budget, authorization, tax and direct mandated spending provisions which cut across many topics which are not recognized as solely surface transportation. We could all find the basis to severely criticize this procedure and vote against such a measure but the good in this measure certainly out weighs the short comings within it.

I'm voting for this in good faith and with the needs of my state and people in mind. We will be here the next four months and with the mandate of the people some may well return for another term. This isn't a perfect bill but its a good measure and I believe moves forward about as well as we can in the current political environment.

Support H.R. 2400 today and let us keep working for better policy in the future.

Mr. THUNE. Mr. Speaker, I rise today in support of the conference report to H.R. 2400, the Building Efficient Surface Transportation Equity Act (BESTEA) of 1998.

This Act takes us yet one step closer to an important goal: Putting trust back into the Highway Trust Fund. For too many years, the taxes American motorists pay at the pump have been siphoned off from their intended uses to be used for other federal programs. Worthy though those programs may be, the fact is, hard working Americans have been deceived about how the money they pay at the pump is being used. Fortunately, this bill contains a guarantee that motor fuels taxes be used to fund roads, bridges, and mass transits.

Because Congress is honoring this commitment, we have been able to dedicate more funding to important transportation priorities. Those priorities include safety and development programs in addition to general allocation to the States. On the subject of State allocations, I think my colleagues in the House would agree that the conferees deserve praise for balancing the disparate needs and desires of the 50 states.

As always is the case with highway funding bills, regionalism plays a large role than partisanship with forming coalitions. In this case, I would say we have struck an agreeable, if not a perfect compromise that will allow each of our States to continue to maintain and build our surface transportation networks.

Certainly this is the case for States like South Dakota. As you are aware, Mr. Speaker, and Chairman SHUSTER is aware, I was less than satisfied with the funding formula contained in H.R. 2400. Along with several of my colleagues from Western States, I attempted to amend H.R. 2400 in order to recognize the unique needs of sparsely populated States. That amendment, unfortunately, was not accepted by the Transportation and Infrastructure Committee and the funding formula was not amended to our satisfaction. However, I believe it clearly defined our concerns and shed light on our expectations that there be more funding made available to States like South Dakota that have miles of highways but lack the population base to adequately fund those roads. As a result, we have a bill before us now that recognizes the need for a national transportation system and a national system of highways.

It is true that each State and the citizens of each State bear a great deal of the responsibility in meeting their own transportation

needs. If each State were solely responsible for funding its transportation, we would be ignoring an irrefutable fact: In order for goods and services to move from Boston and Seattle, they must pass through States like South Dakota. Consequently, people on the Coasts, on the National borders, and in urban centers, use these roads and have an interest in seeing that they are safe for travel. Though it does not provide the funding I would prefer, the bill before us does provide a level of funding that will help ensure middle America allows all areas of the Nation to be connected.

This accomplishment is the result of the hard work of my colleagues who were appointed to the conference committee to negotiate the differences between the House and Senate. Rep. Don Young of Alaska, one of the conferees, certainly understood my concerns. As an At-Large Representative, I was pleased to see that he was named to the conference to work for the interests of sparsely populated but geographically large states like ours.

This bill also is the result of many hours of hard work and dedication of those behind the scenes, including the staff of the Committee on Transportation and Infrastructure. This bill also is the product of the hard work of the men and women at the South Dakota Department of Transportation (SDDOT), who under the direction of Governor William Janklow, Secretary Ronald Wheeler, and Assistant Secretary Jim Jensen, provided invaluable information. And without any question, I and my staff owe much to Richard Howard, SDDOT Director of Intergovernmental Relations. Their hard work helped to ensure the members of this body understood the importance of maintaining a fair formula for South Dakota. They also helped develop important provisions of this bill. I would also like to recognize the hard work put into this legislation by my Legislative Director, Jafar Karim. He put in many long hours on behalf of the people of South Dakota.

One provision of particular importance with help South Dakota meet transit, rural air service, and rail safety needs. The provision will give South Dakota and other States not served by Amtrak the flexibility to use funds made available under the Taxpayer Relief Act of 1997 for the State's highest transportation priorities. I would like to thank Ways and Means Chairman BILL ARCHER, and the conferees for the revenue title of this bill, Rep. KENNY HULSHOF and Rep. JIM NUSSLE, for their support of this provision.

I also want to commend the gentleman from Missouri and the gentleman from Iowa for preserving and protecting the ethanol tax incentives through the year 2007. Though South Dakota and other corn producing States may best understand the benefits of these provisions, the entire Nation benefits from ethanol being a part of our fuel options.

Chairman SHUSTER and Chairman PETRI also deserve thanks for their support of priority projects I submitted on behalf of the State of South Dakota. Through this process, South Dakotans will have a new opportunity to build four lane highways to some of the State's trade centers, such as Aberdeen, Huron, Mitchell, Pierre, and Rapid City. As I have previously stated for the RECORD, these four lanes are the combined vision of former Senator Francis Case and the late Governor George S. Mickelson. These two South Dakota leaders saw the value of connecting our

major population centers to Interstate 90 and Interstate 29 via four-lane highways. I am proud to carry forward that vision.

I also am pleased that the conference granted my request that the bill recognize the Heartland Expressway from Rapid City, South Dakota, to Scottsbluff, Nebraska, and Interstate 29 from Kansas City to the Canadian border, which would include the portion of the highway that runs through South Dakota, as High Priority Trade Corridors. Together these corridors provide important transportation links for the west and east ends of South Dakota. I am hopeful that each will be able to secure a portion of the funds to be made available for High Priority Trade Corridors under this bill.

These projects, and the programs this bill funds, will help South Dakota and the Nation provide the transportation infrastructure necessary to remain competitive into the next century. Clearly, this bill is a slam dunk for the State of South Dakota. Through this act, we will provide for important infrastructure; restore integrity to an important part of the federal budget process; and ensure an equitable national transportation network.

Mr. ARCHER. Mr. Speaker, I stand in reluctant opposition to the conference report on H.R. 2400, the "Building Efficient Surface Transportation and Equity Act of 1998."

I am reluctant because the conference report preserves the goals of the House bill to strengthen and enhance our country's transportation needs into the next century. However, the conference report contains a fatal flaw in the revenue title. Its inclusion was preordained before the conference committee was convened. Regrettably, longstanding traditions of the House were ignored to secure an outcome which I adamantly oppose and which forced my decision not to serve on the conference committee.

The objectionable provision relates to a 20-year-old subsidy for ethanol which the conference report extends through year 2007. The extension was included despite overwhelming opposition by the Ways and Means Committee and, I believe, by a majority of the House of Representatives. A study by the General Accounting Office concluded that ethanol has had no discernible effect on environmental quality and America's energy security. Furthermore, half of the benefits from this inappropriate subsidy flows to a single company. Editorials in papers from all parts of the country, including the corn-growing Mid-West, have registered opposition to the extension of this outdated and reckless subsidy. Copies of some of these editorials are included below.

The bill as approved by the House would have allowed the ethanol credit to sunset in 2000 as provided under current law and instead provide meaningful tax relief and benefits to highway users, barges and railroads, as well as to millions of boaters and fishermen who enjoy our lakes, rivers and shores. Unfortunately, most of this House relief has now been siphoned off by the seven year extension of the subsidy contained in the conference report.

We now have before us an agreement which turns a deaf ear to those who want to eliminate inappropriate subsidies and reduce the size of government. In conclusion, the process has been wronged. Worse, the taxpayer has been wronged. I have no choice but to oppose the conference report.

#### WRONG WAY ON ETHANOL

House Ways and Means Committee Chairman Bill Archer has declined to serve as a conferee on the highway bill and says he'll vote against it, not for reasons having to do with highways but because party leaders have stacked the conference committee in favor of subsidizing ethanol. The chairman opposes the 20-year-old ethanol subsidy as ineffectual and a giveaway to the corn producers from whose crop the gasoline extender is made, as well as to the Archer Daniels Midland Corp., the principal manufacturer.

He is right on the merits, but this is one where the merits don't count. The Ways and Means Committee voted 22 to 11 to let the subsidy lapse when it is supposed to expire in two years. But the Senate voted to extend it. The Democrats, in the form of the Clinton administration and House Minority Leader Dick Gephardt, both support extension, and so, it turns out, does House Speaker Newt Gingrich. The speaker said he'd be pleased to name Mr. Archer a conferee, as custom dictates, but only if he is flanked by two other Ways and Means members prepared to outvote him on the issue. Rather than serve as a cipher, Mr. Archer withdrew.

The subsidy was enacted as part of the patchy national response to the energy crisis in the 1970s. The manufacturers receive income tax credits; the gasoline tax is also lower on gasohol—gasoline mixed with ethanol—than on the conventional product. The idea was to reduce both U.S. dependence on foreign oil and air pollution from the burning of fossil fuels. But the General Accounting Office concluded last year that at best ethanol has made only a marginal contribution to the achievement of either goal. Mostly, the subsidy helps prop up corn prices by adding a little to demand. The higher corn price may mean slightly higher beef and chicken prices than otherwise, since the corn is used for feed. ADM, which happens over the years to have been a major source of campaign contributions to members of both parties, likewise prospers.

It's not clear that gasoline extended by ethanol could be produced at a competitive price without the subsidy. Mr. Archer is willing to face that, and "at a time when we should eliminate inappropriate subsidies," thinks his colleagues should be, too.

[From Rapid City Journal]

#### ETHANOL TAX BREAK OUTDATED

The ethanol industry is mature enough to outlast its tax subsidy.

Since the Arab oil embargo of the 1970s and its resulting energy crisis in the United States, the demand for self-sufficiency in energy production inspired several taxpayer-assisted ventures.

The most well-known is the production of ethanol from fermented corn, an alcohol that is blended with gasoline. Since 1978, when ethanol production was less than 50 million gallons, the industry has grown to produce about 1.5 billion gallons in 1997. Along the way, a tax credit that costs Americans a little more than \$800 million a year has been the principal assist for an industry that can't support itself without the subsidy.

Supporters of the subsidy say it's needed in order to convince investors that major capital allocations to ethanol producing plants

are a reasonably safe bet, thereby employing workers in corn belt regions and giving corn producers an extra market for their product. The benefits to the rest of the country, says the American Coalition for Ethanol, are both strategic, in that foreign demand for oil is reduced, and environmental, in that cleaner air is the result of adding ethanol to gasoline.

It sounds great, but we disagree. Subsidies to ethanol have long since outlived their original intent, which was to help a fledgling industry that held some promise for energy self-sufficiency get off the ground. Annual production of 1.5 billion gallons, which consumes between 5 percent to 10 percent of the country's corn crop, suggests the industry has matured and should be able to make it on its own.

Ethanol backers retort that the petroleum industry gets subsidies, therefore so should they. On reviewing a list of petroleum industry tax breaks provided to us by ethanol spokesmen, tax experts we consulted tell us that the bulk of the so-called petroleum subsidies—principally tax credits for conducting business overseas and accelerated depreciation allowances—are available to every multi-national business, as well as every company that owns machinery and equipment. If the ethanol industry went multi-national, it, too, would get the same tax treatment.

The ethanol industry also lumps in military costs in the Persian Gulf as federal spending on oil, claiming the military cost adds as much as 20 cents a gallon to the final price of gasoline. We think the argument is specious. Even if ethanol production in this country were to double, as its backers hope, it would hardly make a dent in America's demand for cheap foreign oil. Besides, maintaining order in the Gulf is not tied exclusively to protecting the flow of oil.

As to environmental claims, researchers in recent years have been calling ethanol's benefits into question. A 1993 report by the University of Colorado in Chemical and Engineering News reported that EPA-mandated use of ethanol along Colorado's Front Range had a statistically insignificant impact on air quality. And the National Academy of Science's Douglas Lawson, lead author of a comprehensive study on oxygenated fuels, told Forbes Magazine a year ago that EPA policies mandating ethanol "may not be cost-effective or may be ineffective." Other studies are equally dubious about ethanol's purported environmental benefits.

We're also leery of the additional costs that will be borne by livestock producers, who could pay more for corn if ethanol production reached hope-for levels.

In a free-market world, we have no argument with ethanol, per se, but we believe that if it is indeed a product of such many-sided benefits, private sector resources will eagerly pursue a chance to get in on it.

American taxpayers have already given it as much of a boost as they should.

Mr. POSHARD. Mr. Speaker, I rise today in support of the conference report on reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA). When I voted for passage of H.R. 2400, the Building Efficient Surface Transportation and Equity Act (BESTEA) on April 1 of this year, I did so because it was a good bill for Illinois. Although that is not entirely true of the conference report, I will vote in favor of it because it contains some important provisions and will allow us to complete many desperately-needed projects.

Prior to passage of the original ISTEA bill, Illinois received only 93 cents for every gas tax dollar it sent to the federal treasury. As a

member of the Transportation and Infrastructure Committee then and now, I worked hard to bring equity to this relationship, and this effort was successful. ISTEA returned \$1.03 to Illinois for each tax dollar. H.R. 2400, the Building Efficient Surface Transportation and Equity Act (BESTEA), of which I am a cosponsor, pledged to provide the Land of Lincoln over a billion dollars annually over the next six years and maintain this return. However, the conference report is a significant setback from this progress. It returns my state to donor status, at 92 cents for every dollar in gas taxes, and reduces Illinois' annual return significantly.

Nonetheless, the conference report earmarks funding for several transportation projects in the 19th Congressional District which will greatly benefit my constituents. We must have the funds to follow through with these contracts or risk losing an entire construction season. In addition, I am pleased that the state of Illinois has been guaranteed hundreds of millions of dollars in discretionary funding for critical projects, including construction on the Stevenson Expressway and Wacker Drive in Chicago. These funds will be crucial in improving conditions in the Chicago area. The bill also provides for increased transit funding, establishes an access-to-jobs initiative which will assist those making the transition from welfare to work, and gives Illinois 29% more funding that under the original 1991 ISTEA legislation.

The conference report extends the federal tax credit for ethanol until the year 2007, which I have fiercely advocated for over the years. This is sound policy that will help American agriculture and the environment, benefit consumers, and reduce our dependence on foreign oil. Unfortunately, the final version of this legislation does not contain House-passed provisions relating to the intrastate transportation of agricultural products, such as fertilizers, pesticides, and fuels. For two years, I have fought with Representatives EWING, BARCIA, and BUYER, and other supporters to allow states to maintain their current exceptions to federal regulations that would overburden our family farmers with costly compliance fees. Another opportunity to address this reality is not likely before the end of this Congress, and I wish the outcome had been different. I am pleased that a portion of the offset moneys will be used for veterans' education and disability programs, and I will continue to work on behalf of America's veterans in every way I can.

No, this conference report is not perfect, but I nonetheless urge my colleagues to vote in favor of it. I have strongly supported this process since its inception, and truly believe the ISTEA framework has been successful. There are far too many critical projects and programs that must be funded immediately, and we can ill afford to allow this reauthorization process to continue any longer. I am proud of my work as a member of the Transportation and Infrastructure Committee in helping to craft this next incarnation of ISTEA, and I look forward to its passage.

Mr. FROST. Mr. Speaker, Title III of the Conference Report to accompany H.R. 2400 contains project authorizations in section (c)(1) making \$3,000,000,000 available for fiscal years 1998 through 2003 for a variety of projects. Included in this section is authorization for the Dallas North Central Light Rail Transit Extension in the amount of \$188 million. I am taking this opportunity to thank the

conferees for making these funds available, but I would also like to take this opportunity to reiterate the position of the Dallas Area Rapid Transit regarding the full federal share of this project.

DART originally requested \$333 million as the federal share for fulfillment of the Full Funding Grant Agreement that has been under negotiation between DART and the Federal Transit Administration. During these negotiations, FTA indicated its commitment to proceed with the implementation of the project by the issuance of a Letter Of No Prejudice. It is important to note that it is DART's understanding that the \$188 million authorized in the conference report to accompany H.R. 2400 is a floor and not a ceiling and that the full \$333 million will be made available for the federal share to ensure the completion of this project which has been the subject of the negotiations between DART and FTA.

Mr. BOEHLERT. Mr. Speaker, I rise today in strong support of Tea-21—a legislative package I refer to as "Green Tea." This is the most significant piece of environmental legislation passed in the 105th Congress. "Green Tea" provides billions of dollars to improve the quality of our nation's air through the Congestion Mitigation Air Quality (CMAQ) program. As we work to improve air quality CMAQ will prove to be one of our most valuable tools.

"Green Tea" dramatically increases our commitment to transit programs which are critical to improving our environment and relieving the commuter congestion that chokes our urban centers. This legislation secures \$41 billion for transit over the next six years.

"Green Tea" continues the enormously successful Transportation Enhancement program. This program has built bike paths and preserved historic transportation structures across the country.

"Green Tea" promotes the use of electric and natural gas vehicles—an important step toward reducing green house gases.

In crafting "Green Tea" Chairman SHUSTER worked closely with the environmental community to produce a bill that will improve America's infrastructure and our environment.

Mr. BURTON of Indiana. Mr. Speaker, due to circumstances beyond my control, I am unable to cast my vote for the Building Efficient Surface Transportation and Equity Act (H.R. 2400) Conference Report. If I were able to vote on the conference report, I would vote in the affirmative. This legislation is vital to restoring integrity to the Highway Trust Fund, and funding equity to the several States.

While the issue of transportation infrastructure may not seem glamorous, it takes on a compelling National interest when economic growth is restricted, and our valuable time is wasted by crushing traffic jams, potholed and dangerous roads, and a crumbling National transportation infrastructure. The Conference Report on H.R. 2400 is landmark legislation that affirms the Federal government's commitment to a strong, modern, and safe transportation infrastructure.

This legislation restores the integrity of the Highway Trust Fund; it has the support of business and labor, contractors and environmentalists, safety groups, and State and local governments alike; it addresses many of the concerns of Hoosiers by returning a greater portion of the money collected by motor vehicle excise taxes to Indiana for much-needed infrastructure investment. Equally as impor-

tant, BESTEA gives States and localities the ability to decide how and where transportation dollars should be spent.

Again, Mr. Speaker, if I were able to vote on the conference report, I would vote in the affirmative. It is crucial that the Congress restore integrity to the Highway Trust Fund and ensure funding equity to the several States.

Mr. SHUSTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. OBEY. I most certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will repeat the motion.

The Clerk read as follows:

Mr. OBEY moves to recommit the Conference Report on the bill, H.R. 2400, to the Committee of Conference with instructions to the managers on the part of the House to strike those provisions of the Conference Report that prohibit or reduce service-connected disability compensation to veterans relating to use of tobacco products.

The SPEAKER pro tempore. The motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 190, nays 195, not voting 49, as follows:

[Roll No. 191]

YEAS—190

Aderholt	Boswell	Clayton
Baesler	Boyd	Coburn
Baker	Brady (TX)	Condit
Ballenger	Brown (OH)	Costello
Barr	Bunning	Crane
Barrett (NE)	Campbell	Crapo
Barrett (WI)	Canady	Cunningham
Bartlett	Cannon	Davis (FL)
Barton	Capps	Deal
Becerra	Cardin	DeGette
Bentsen	Carson	Delahunt
Berman	Castle	Dicks
Bilbray	Chabot	Doggett
Bilirakis	Chambliss	Dooley
Bishop	Chenoweth	Edwards
Bonilla	Christensen	Emerson

Engel	Lewis (KY)	Sandlin	Pease	Rush	Tauscher	Cannon	Houghton	Pastor
English	Lowey	Sawyer	Peterson (PA)	Ryun	Tauzin	Capps	Hulshof	Paxon
Ensign	Lucas	Scarborough	Petri	Saxton	Thune	Carson	Hutchinson	Payne
Eshoo	Luther	Schaffer, Bob	Pickering	Schaefer, Dan	Traficant	Chambliss	Istook	Pease
Etheridge	Maloney (CT)	Schumer	Pitts	Serrano	Upton	Clay	Jackson (IL)	Pelosi
Evans	Maloney (NY)	Scott	Pombo	Shaw	Velazquez	Clayton	Jackson-Lee	Peterson (MN)
Fox	Manton	Sensenbrenner	Portman	Shimkus	Vento	Clement	(TX)	Peterson (PA)
Gejdenson	Martinez	Sessions	Radanovich	Shuster	Visclosky	Clyburn	Jefferson	Petri
Gibbons	McCarthy (MO)	Shadegg	Rahall	Skeen	Walsh	Coble	Jenkins	Pickering
Gillmor	McCollum	Shays	Ramstad	Skelton	Waters	Collins	John	Pickett
Gilman	McDermott	Sherman	Redmond	Smith (TX)	Watt (NC)	Combust	Johnson (CT)	Pitts
Goode	McGovern	Sisisky	Riley	Snowbarger	Weldon (FL)	Condit	Johnson (WI)	Pombo
Goodlatte	McHale	Slaughter	Roemer	Snyder	Weller	Cook	Johnson, E. B.	Pomeroy
Gordon	McIntosh	Smith (MI)	Rogers	Solomon	White	Cooksey	Kanjorski	Poshard
Goss	McIntyre	Smith (NJ)	Rohrabacher	Spence	Wise	Costello	Kaptur	Pryce (OH)
Gutierrez	McNulty	Smith, Adam	Ros-Lehtinen	Stokes		Coyne	Kelly	Radanovich
Hall (TX)	Metcalf	Smith, Linda	Rothman	Sununu		Cramer	Kennedy (MA)	Rahall
Hastings (FL)	Miller (FL)	Souder				Crapo	Kennelly	Ramstad
Hastings (WA)	Minge	Spratt				Cubin	Kildee	Redmond
Hayworth	Moakley	Stabenow	Archer	Green	Quinn	Cummings	Kilpatrick	Regula
Hefner	Moran (VA)	Stark	Bateman	Harman	Rangel	Cunningham	Kim	Riley
Hill	Moore	Stearns	Blunt	Hefley	Reyes	Danner	Kind (WI)	Rivers
Hilleary	Myrick	Strickland	Boucher	Hoekstra	Riggs	Davis (FL)	Klecza	Rodriguez
Hinchee	Nethercutt	Stump	Burr	Hyde	Royce	Davis (IL)	Klink	Roemer
Hobson	Neumann	Stupak	Burton	Johnson, Sam	Sanford	Davis (VA)	Klug	Rogan
Hoyer	Norwood	Talent	Callahan	King (NY)	Skaggs	DeGette	Knollenberg	Ros-Lehtinen
Hulshof	Obey	Tanner	Conyers	Kingston	Smith (OR)	Delahunt	Kucinich	Rothman
Inglis	Olver	Taylor (MS)	DeFazio	Lofgren	Stenholm	DeLauro	LaFalce	Roybal-Allard
Jackson-Lee	Pappas	Thomas	Deutsch	McCrary	Taylor (NC)	DeLay	LaHood	Rush
(TX)	Pastor	Thompson	Fawell	McDade	Torres	Diaz-Balart	Lampson	Ryun
Jefferson	Pelosi	Thornberry	Fazio	Meehan	Towns	Dickey	Lantos	Sanchez
Johnson (WI)	Peterson (MN)	Thurman	Foley	Meeks (NY)	Wamp	Dingell	Latham	Sanders
Jones	Pickett	Tiahrt	Furse	Miller (CA)	Wexler	Doggett	LaTourette	Sandlin
Kaptur	Pomeroy	Tierney	Gephardt	Mollohan	Wicker	Dooley	Lazio	Sawyer
Kasich	Porter	Turner	Gonzalez	Neal		Doolittle	Leach	Saxton
Kelly	Poshard	Watkins	Graham	Parker		Doyle	Lee	Scarborough
Kennedy (MA)	Price (NC)	Watts (OK)				Dreier	Levin	Schaefer, Dan
Kennedy (RI)	Pryce (OH)	Waxman				Duncan	Lewis (CA)	Schumer
Kennelly	Regula	Weldon (PA)				Dunn	Lewis (KY)	Scott
Kildee	Rivers	Weygand				Ehlers	Linder	Serrano
Kind (WI)	Rodriguez	Whitfield				Ehrlich	Lipinski	Shaw
Klecza	Rogan	Wolf				Engel	Livingston	Sherman
LaFalce	Roukema	Woolsey				English	LoBiondo	Shimkus
Lampson	Roybal-Allard	Wynn				Ensign	Lowey	Shuster
Lantos	Sabo	Yates				Etheridge	Lucas	Sisisky
Largent	Salmon	Young (AK)				Evans	Luther	Skeen
Leach	Sanchez	Young (FL)				Everett	Maloney (CT)	Skelton
Lewis (GA)	Sanders					Ewing	Manton	Slaughter

## NOT VOTING—49

Archer	Green	Quinn
Bateman	Harman	Rangel
Blunt	Hefley	Reyes
Boucher	Hoekstra	Riggs
Burr	Hyde	Royce
Burton	Johnson, Sam	Sanford
Callahan	King (NY)	Skaggs
Conyers	Kingston	Smith (OR)
DeFazio	Lofgren	Stenholm
Deutsch	McCrary	Taylor (NC)
Fawell	McDade	Torres
Fazio	Meehan	Towns
Foley	Meeks (NY)	Wamp
Furse	Miller (CA)	Wexler
Gephardt	Mollohan	Wicker
Gonzalez	Neal	
Graham	Parker	

□ 1757

Mr. PETERSON of Pennsylvania changed his vote from "yea" to "nay." Messrs. ADAM SMITH of Washington, STRICKLAND, BRADY of Texas, JEFFERSON, WEYGAND, YOUNG of Alaska, Mrs. KELLY, and Messrs. ENGEL, SMITH of Michigan, MCGOVERN, MANTON, MARTINEZ, WYNN, INGLIS of South Carolina and Mrs. CLAYTON changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

## PERSONAL EXPLANATION

Mr. QUINN. Mr. Speaker, due to family obligations I was unavoidably detained from several roll call votes today. Had I been present, I would have voted no on roll call votes 187, and 188. I would have voted yes on roll call vote 189, 190 and 191.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

## RECORDED VOTE

Mr. SHUSTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 297, noes 86, not voting 50, as follows:

[Roll No. 192]

AYES—297

## NAYS—195

Abercrombie	Doyle	Kilpatrick
Ackerman	Dreier	Kim
Allen	Duncan	Klink
Andrews	Dunn	Klug
Armey	Ehlers	Knollenberg
Bachus	Ehrlich	Kolbe
Baldacci	Everett	Kucinich
Barcia	Ewing	LaHood
Bass	Farr	Latham
Bereuter	Fattah	LaTourette
Berry	Filner	Lazio
Blagojevich	Forbes	Lee
Bliley	Ford	Levin
Blumenauer	Fossella	Lewis (CA)
Boehlert	Fowler	Linder
Boehner	Frank (MA)	Lipinski
Bonior	Franks (NJ)	Livingston
Bono	Frelinghuysen	LoBiondo
Borski	Frost	Manzullo
Brady (PA)	Gallely	Markey
Brown (CA)	Ganske	Mascara
Brown (FL)	Gekas	Matsui
Bryant	Gilchrest	McCarthy (NY)
Buyer	Gingrich	McHugh
Calvert	Goodling	McInnis
Camp	Granger	McKeon
Clay	Greenwood	McKinney
Clement	Gutknecht	Meek (FL)
Clyburn	Hall (OH)	Menendez
Coble	Hamilton	Mica
Collins	Hansen	Millender-
Combust	Hastert	McDonald
Cook	Herger	Mink
Cooksey	Hilliard	Moran (KS)
Cox	Hinojosa	Murtha
Coyne	Holden	Nadler
Cramer	Hoolley	Ney
Cubin	Horn	Northup
Cummings	Hostettler	Nussle
Danner	Houghton	Oberstar
Davis (IL)	Hunter	Ortiz
Davis (VA)	Hutchinson	Owens
DeLauro	Istook	Oxley
DeLay	Jackson (IL)	Packard
Diaz-Balart	Jenkins	Pallone
Dickey	John	Pascrell
Dingell	Johnson (CT)	Paul
Dixon	Johnson, E. B.	Paxon
Doolittle	Kanjorski	Payne

Abercrombie	Barr	Borski
Ackerman	Bass	Boswell
Aderholt	Becerra	Brady (PA)
Allen	Bereuter	Brady (TX)
Andrews	Berry	Brown (CA)
Armey	Blagojevich	Brown (FL)
Bachus	Bliley	Bryant
Baessler	Blumenauer	Bunning
Baker	Boehlert	Buyer
Baldacci	Bonior	Calvert
Barcia	Bono	Camp

Cannon	Houghton	Pastor
Capps	Hulshof	Paxon
Carson	Hutchinson	Payne
Chambliss	Istook	Pease
Clay	Jackson (IL)	Pelosi
Clayton	Jackson-Lee	Peterson (MN)
Clement	(TX)	Peterson (PA)
Clyburn	Jefferson	Petri
Coble	Jenkins	Pickering
Collins	John	Pickett
Combust	Johnson (CT)	Pitts
Condit	Johnson (WI)	Pombo
Cook	Johnson, E. B.	Pomeroy
Cooksey	Kanjorski	Poshard
Costello	Kaptur	Pryce (OH)
Coyne	Kelly	Radanovich
Cramer	Kennedy (MA)	Rahall
Crapo	Kennelly	Ramstad
Cubin	Kildee	Redmond
Cummings	Kilpatrick	Regula
Cunningham	Kim	Riley
Danner	Kind (WI)	Rivers
Davis (FL)	Klecza	Rodriguez
Davis (IL)	Klink	Roemer
Davis (VA)	Klug	Rogan
DeGette	Knollenberg	Ros-Lehtinen
Delahunt	Kucinich	Rothman
DeLauro	LaFalce	Roybal-Allard
DeLay	LaHood	Rush
Diaz-Balart	Lampson	Ryun
Dickey	Lantos	Sanchez
Dingell	Latham	Sanders
Doggett	LaTourette	Sandlin
Dooley	Lazio	Sawyer
Doolittle	Leach	Saxton
Doyle	Lee	Scarborough
Dreier	Levin	Schaefer, Dan
Duncan	Lewis (CA)	Schumer
Dunn	Lewis (KY)	Scott
Ehlers	Linder	Serrano
Ehrlich	Lipinski	Shaw
Engel	Livingston	Sherman
English	LoBiondo	Shimkus
Ensign	Lowey	Shuster
Etheridge	Lucas	Sisisky
Evans	Luther	Skeen
Everett	Maloney (CT)	Skelton
Ewing	Manton	Slaughter
Farr	Manzullo	Smith (MI)
Fattah	Markey	Smith (NJ)
Filner	Martinez	Smith (TX)
Forbes	Mascara	Snowbarger
Ford	Matsui	Snyder
Fossella	McCarthy (MO)	Solomon
Fowler	McCarthy (NY)	Spratt
Fox	McDermott	Stabenow
Frank (MA)	McGovern	Stearns
Franks (NJ)	McHale	Stokes
Frost	McHugh	Stupak
Gallely	McInnis	Sununu
Ganske	McIntosh	Talent
Gejdenson	McIntyre	Tanner
Gekas	McKeon	Tauscher
Gephardt	McKinney	Tauzin
Gibbons	Meek (FL)	Thomas
Gilchrest	Menendez	Thompson
Gillmor	Metcalf	Thune
Goode	Mica	Tiahrt
Goodlatte	Millender-	Traficant
Goodling	McDonald	Turner
Gordon	Mink	Upton
Granger	Moakley	Velazquez
Greenwood	Moran (KS)	Vento
Gutierrez	Murtha	Visclosky
Gutknecht	Nadler	Walsh
Hall (OH)	Neumann	Waters
Hamilton	Ney	Watkins
Hansen	Northup	Watt (NC)
Hastert	Norwood	Watts (OK)
Hefner	Nussle	Weldon (FL)
Hill	Oberstar	Weldon (PA)
Hilleary	Olver	Weller
Hilliard	Ortiz	Weygand
Hinchee	Owens	Whitfield
Hinojosa	Oxley	Wise
Holden	Packard	Woolsey
Hoolley	Pallone	Wynn
Horn	Pappas	Young (AK)
Hostettler	Pascrell	

## NOES—86

Ballenger	Bilirakis	Cardin
Barrett (NE)	Bishop	Castle
Barrett (WI)	Boehner	Chabot
Bartlett	Bonilla	Chenoweth
Barton	Boyd	Christensen
Bentsen	Brown (OH)	Coburn
Berman	Campbell	Cox
Bilbray	Canady	Crane

Deal	Largent	Sensenbrenner
Dicks	Lewis (GA)	Sessions
Edwards	Maloney (NY)	Shadegg
Emerson	McCollum	Shays
Eshoo	McNulty	Smith, Adam
Frelinghuysen	Miller (FL)	Smith, Linda
Gilman	Minge	Souder
Goss	Moran (VA)	Spence
Hall (TX)	Morella	Stark
Hastings (FL)	Myrick	Strickland
Hastings (WA)	Nethercutt	Stump
Hayworth	Obey	Taylor (MS)
Herger	Paul	Thornberry
Hobson	Porter	Thurman
Hoyer	Portman	Tierney
Hunter	Price (NC)	Waxman
Inglis	Rohrabacher	White
Jones	Roukema	Wolf
Kasich	Sabo	Yates
Kennedy (RI)	Salmon	Young (FL)
Kolbe	Schaffer, Bob	

**CORRECTING ENROLLMENT OF H.R. 2400, TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY**

Mr. SHUSTER. Mr. Speaker, I offer a concurrent resolution (H.Con.Res. 282) correcting the enrollment of H.R. 2400, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. PEASE). The Clerk will report the concurrent resolution.

The Clerk read as follows:

H. CON. RES. 282

*Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill H.R. 2400 the Clerk of the House of Representatives shall make the following corrections:*

(1) In the table contained in section 1602 of the bill—

(A) strike item 166, relating to Macomb County, Michigan, and insert the following:

No.	State	Project description	[Dollars in Millions]
166.	Michigan .....	Improvements to Tenth Street (Port Huron) ..	1.8

(B) after item 1850 insert the following:

No.	State	Project description	[Dollars in Millions]
1851.	Michigan .....	Bridge-to-Bay bike path, St. Clair County .....	0.450

(C) in item 755, relating to Cross Seminole Trail, Florida, strike "1.25" and insert "1.5"; (D) in item 902, relating to St. Johns River Bridge, Florida, strike "10.5" and insert "14.0";

(E) by striking item 242, relating to magnetic lane marking for I-4, Florida, and item 1065, relating to US 1792 in Volusia County, Florida;

(F) in item 702, relating to I-4 in Orlando, Florida, by striking "10.5" and insert "10.0";

(G) in item 770, relating to US-17/92 in Volusia County, Florida, striking "1.35" and insert "1.0";

(H) in item 789, relating to construction of interchange, Orange County, Florida, strike "2.0625" and insert "1.0";

(I) in item 635, relating to Florida National Scenic Trail, strike "1.875" and insert "2.15"; and

(J) in item 1383, relating to improvements to Alden Road, Florida, strike "0.525" and insert "0.35"; and

(2) in section 1212 by striking subsection (v) and inserting the following:

" (v) BOUNDARY WATERS CANOE AREA.—Effective January 1, 1999, section 4 of the Act of October 21, 1978 (Public Law 95-495) is amended—

" (1) by striking subsection (g) and inserting the following:

" (g) Nothing in this Act shall be construed to prevent the operation of motorized vehicles to transport boats across the portages between the Moose Lake Chain and Basswood Lake, Minnesota, and between Vermilion Lake and Trout Lake, Minnesota.; and

" (2) in subsection (c)(2) by striking "

Alder, Cook County; Canoe, Cook County";

On page 1A-71 line 22, insert after system "\$10,000,000 of such amounts shall be available to the State of Alabama for fiscal year 1999 and 2000".

On page 1B-129, line 10, insert:

"(g)(1) The Secretary shall provide \$10 million for construction of highway 323 between Alzado and the vicinity of Ekalaka, Montana.

"(2) Funds made available shall be available for obligation in the same manner as if funds had been appropriated under Chapter 1 of Title 23.

"(h)(1) The Secretary shall provide \$1.125 million for construction of Third Street North, CSAH 81, Waite Park.

"(2) Funds made available shall be available for delegation in the same manner as if funds had been appropriated under Chapter 1 of Title 23."

Mr. SHUSTER (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. SHUSTER) is recognized for 1 hour.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is simply to correct some mistakes that were in the bill, inadvertent mistakes in the bill.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I concur with the statement of the gentleman from Pennsylvania (Mr. SHUSTER) that this does correct inadvertent omissions that were made and errors in the tabulation of the bill and support the unanimous consent.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

**GENERAL LEAVE**

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report to accompany the bill, H.R. 2400.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

**APPOINTMENT OF CONFEREES ON H.R.1385, EMPLOYMENT, TRAINING, AND LITERACY ENHANCEMENT ACT OF 1997**

Mr. MCKEON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1385) to consolidate, coordinate and improve employment, training, literacy, and vocational rehabilitation programs in the United States, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment thereto, disagree to the Senate amendment,

**NOT VOTING—50**

Archer	Green	Quinn
Bateman	Harman	Rangel
Blunt	Hefley	Reyes
Boucher	Hoekstra	Riggs
Burr	Hyde	Rogers
Burton	Johnson, Sam	Royce
Callahan	King (NY)	Sanford
Conyers	Kingston	Skaggs
DeFazio	Lofgren	Smith (OR)
Deutsch	McCrery	Stenholm
Dixon	McDade	Taylor (NC)
Fawell	Meehan	Torres
Fazio	Meeks (NY)	Towns
Foley	Miller (CA)	Wamp
Furse	Mollohan	Wexler
Gonzalez	Neal	Wicker
Graham	Parker	

□ 1807

The Clerk announced the following pairs:

On this vote:

Mr. Green for, with Mr. Sam Johnson of Texas against.

Mr. Wicker for, with Mr. Parker against.

Mr. Wamp for, with Mr. Sanford against.

Mr. McDade for, with Mr. Kingston against.

Mr. Burton for, with Mr. Archer against.

Mr. Quinn for, with Mr. Burr of North Carolina against.

Mr. TIERNEY changed his vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**PERSONAL EXPLANATION**

Mr. GRAHAM. Mr. Speaker, I would like to state that had I been present during the vote on the conference report for H.R. 2400, Building Efficient Surface Transportation and Equity Act, I would have voted "no" on the conference report.

**FURTHER MESSAGE FROM THE SENATE**

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate passed a concurrent resolution of the following title, in which concurrence of the House is requested:

S. Con. Res. 99. Concurrent resolution authorizing the flying of the POW/MIA flag.