

# INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. DORGAN. Mr. President, I simply wanted to stand and say that the Senator from Oklahoma, and especially the Senator from Missouri, who spoke earlier, have made important recommendations.

Yesterday, I believe I read in the Congress Daily the recommendations of the Senator from Missouri on the extension of the highway bill. I think the approach he suggests makes a great deal of good sense. And I hope most Members of Congress will understand in this late hour and rally around an approach that gets this done—allows the contracts to be let, and doesn't provide an interruption in the highway activities in our country. This is very important to this country.

So I commend the Senator from Missouri, the Senator from Montana, and so many others who are working on these issues, and hope all Members of the Senate feel, as we do, that this is something that must get done in the final days of this session.

Mr. BOND. Mr. President, I thank my colleague from North Dakota and my colleague from Oklahoma for their kind comments. Unfortunately, at this time in the session, we probably need to get the concurrence of all of the Members, and not just most of them. It is something I hope that will not be prejudicial to any State.

I thank these Senators, and particularly the leadership of the Environment and Public Works Committee, and the leadership of the Senate for moving forward on a project that must be accomplished before we leave.

I thank the Chair.

## INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the Senate will now turn to the conference report on intelligence, with 20 minutes equally divided under the control of the Senator from Alabama and the Senator from Nebraska, with the Senator from New Jersey to be recognized for 10 minutes.

Mr. SHELBY. Mr. President, I rise in my capacity as chairman of the Select Committee on Intelligence to support passage of the conference report on S. 858, the Intelligence Authorization Act for Fiscal Year 1998. This important legislation authorizes funds for intelligence programs and related activities of the Central Intelligence Agency, the National Security Agency, and other Government entities.

This conference report also represents the culmination of a lengthy and detailed review by the Intelligence Committee of the plans, policies, and programs contained in the President's budget submission for fiscal year 1998. In this regard, I wish to commend the

vice chairman of the committee, Senator KERREY from Nebraska, for his assistance in crafting this important legislation. Senator KERREY played a pivotal role in shaping this legislation, and I am pleased we were able to work together, in a bipartisan manner, to bring this legislation to the floor. It's a good bill; my colleagues should support it; and the President should sign it into law.

Let me also take this opportunity to commend Chairman GOSS, my counterpart on the House Permanent Select Committee on Intelligence, along with Mr. DICKS, the ranking minority member. We have developed what I consider to be a very positive and productive working relationship, which manifested itself in the smooth functioning and cordial atmosphere in which our conference deliberations took place.

Although Senate and House conferees completed action on this legislation 7 weeks ago, a joint decision was made not to file the conference report at that time. This was due to the fact that the conference committee on the Fiscal 1998 National Defense Authorization Act had yet to resolve all open issues. Given that funding for all intelligence programs and activities is, consistent with past practice, included in the intelligence authorization bill, we agreed to withhold bringing our bill to a vote until conference action on the Defense authorization bill was completed and the Defense authorization bill was voted on by the Senate.

The conferees on S. 858 took several important steps to improve this country's ability to collect, analyze, and produce intelligence about America's adversaries. We authorized funds above the President's request because we believe there are areas where additional resources are needed in this post-cold-war period of uncertainty. While the mission of our intelligence gathering organizations has not changed, the areas on which they must focus have become diverse and more challenging.

I am, therefore, particularly pleased that the conferees agreed with the Senate that additional resources should be added for advanced research and technology development and in five areas that I call the "five C's": counter-narcotics, counterterrorism, counterproliferation, counterintelligence, and covert action.

The conferees did not agree, however, to include Senate section 306, "Encouragement of Disclosure of Certain Information to Congress," in the final conference report. The 20 conferees from the Senate—the 19 members of the Senate Select Committee on Intelligence and Senator STROM THURMOND, the distinguished chairman of the Senate Armed Services Committee—voted unanimously in favor of the provision that would require the President to notify Federal employees and contractors with classified contracts that they are not violating any law, Executive order, regulation, or policy if they disclose information, including classified infor-

mation, evidencing wrongdoing to the committees of Congress with primary oversight of the Federal department or agency involved. A majority of the House conferees voted against the measure, but they agreed that the issue should be explored in more detail and they committed to producing legislation soon. Both committees will schedule hearings on the subject early next year. The conferees did include a declaration, in lieu of section 306, expressing the sense of Congress that Members of Congress have equal standing with the executive branch to receive classified information to carry out their constitutionally mandated oversight functions.

I am disappointed that we were unable to convince a majority of our House colleagues to support Senate section 306. Given the importance of congressional oversight of intelligence activities, the committee will devote significant attention to this important issue in the near future and I look forward to producing legislation that both Houses can agree on. I also hope that the President will work with the committees in drafting such legislation.

I urge the President to reconsider his threat to veto a provision that would allow individuals within his own administration to come forward to the appropriate committees of Congress with evidence of wrongdoing, rather than leaking it to the press, as seems to be the case today.

Again, Mr. President, I strongly urge my colleagues to support this important piece of legislation.

Mr. KERREY. Mr. President, I rise in my capacity as vice chairman of the Intelligence Committee to urge passage of the intelligence authorization conference report. The House and Senate both produced good bills this year, they fit together quite well, and the conference committee under Chairman SHELBY's leadership worked out a compromise which I recommend to my colleagues. The outcome of the conference favors new technology, focuses on today's and tomorrow's hardest targets, and increases the usefulness of U.S. intelligence to its Government customers and to the public.

The legislation coming out of conference is not perfect, because it drops a provision which the Senate had strongly favored, the provision guaranteeing the right of public employees to share classified information about wrongdoing directly with the appropriate congressional committee. I will return in a moment to the failure to include this provision, and I will have more to say in the future about the necessity of such a provision.

Last month, while the conferees were meeting, the CIA was publicly celebrating the 50th anniversary of its creation. I salute its employees and I join President Clinton in praising their generous patriotism, their willingness to take risks for America, and their great professional skill. Their successes during the cold war, be they in space and

airborne reconnaissance, human intelligence, covert operations, or intelligence analysis, were key to our eventual victory. In the years since the cold war the people of the CIA have continued to make a huge difference in warning our military, helping our leaders make the right policy choices, and keeping the American people safe.

It shouldn't be surprising that the CIA is a misunderstood organization, because it is mostly a secret organization. Its employees are secretive about their duties, their budget is secret, their operations are secret. Further, while the CIA's failures, both real and apparent, will probably find their way into the press, the successes will not—and should not. Add the general disinclination these days to think deeply about foreign threats and you see the problem. But it is in the national interest to confront this problem, and to demonstrate to the public the necessity and the necessary uniqueness of the CIA.

The necessity should be clear. Most countries need an organization, a dedicated service, to collect and analyze information so policymakers can make good decisions and military forces can be warned and prepared. Such a service might also be called upon occasionally to act in a clandestine or covert manner, in a way that the Nation's leaders could plausibly deny. A great nation with global responsibilities requires a highly capable global service. Because the information collection is secret—no reason to use an intelligence service to collect what is publicly available—and because the resulting analysis may also have to be kept secret to protect the secret sources, much of this intelligence service's activity should be secret. The necessity for secrecy seems self-evident, but in a period like present, when the threats to our national life seem remote, it bears repeating. It also bears watching.

Secrecy, while necessary in intelligence, conflicts with the openness required of government operations in a democracy. The oversight roles performed by an attentive public and alert media, oversight roles which would quickly find wrongdoing in a Government agriculture program, are usually unavailable to probe secret intelligence operations. Congress has to take up the slack.

For the first 28 years of CIA's existence, Congress's oversight of secret intelligence was benign, distant, and superficial. For the most part, Congress trusted the CIA and the other agencies to do the right thing. But when we ask Government agencies to operate in secret, to take the most serious risks, to conduct operations which the Government will publicly deny, vigorous congressional oversight is required. In creating the Intelligence Committees of the two Houses in the mid-1970's, Congress devised a method for legislative oversight of secret operations which works well and which has excited the curiosity and imitation of many other

countries. It is a system which works hard to insure U.S. intelligence activities are conducted in accordance with U.S. law and American values. It protects the right of Americans not to be spied on by their own Government, it protects the taxpayer's dollars spent on intelligence, and it protects the employees of intelligence agencies from having to carry out an operation which has not been approved by the people's representatives. Despite the nostalgic complaints from those who never served under the current oversight system, congressional oversight has made U.S. intelligence much stronger.

Congressional oversight depends on information. That elementary fact is enshrined in the Lloyd-LaFollette Act of 1912, which makes explicit the right of employees of the executive branch to directly provide information to Congress, and in the more recent Whistleblower Protection Act. Particularly in the murky and potentially lethal world of intelligence, it seems self-evident that an employee who knew of serious wrongdoing might not want to clear with her boss or with her agency's inspector general or even with the Justice Department the fact that she was going to the Intelligence Committee or the Armed Services Committee or another appropriate committee with information about the wrongdoing.

The administration sees it differently. They state the President's control of national security information is vested in him by the Constitution, specifically by his powers in foreign affairs and as commander in chief, and that the provision in the Senate intelligence bill authorizing employees to bring classified reports directly to Congress violates the Constitution. The administration is also concerned that to weaken the President's control of secret information is to increase the chance of security leaks—even though Congress has a much better record than the executive branch in keeping classified information secure. Since a President has the sole authority to classify any information he wants, it is possible that some future administration could classify a report on sexual harassment or bribery or any topic. Congress will be a supplicant for information identifying wrongdoing, not an authorizer and overseer of Government activity.

I must stress that the Clinton administration has given no hint it would ever behave in such a fashion; in fact, the intelligence committees get more information from this administration than from any other in our history. In addition to its many classified notifications to the oversight committees, this administration is declassifying data from earlier eras and also recently announced the dollar amount of the total intelligence budget for the last fiscal year. But ours is a government of laws, not individuals, and we must be prepared for more contentious relations between the branches, and less principled administrations, than we have now.

The Senate provision was, very simply, about Congress' right to Government information and the right of citizens to inform Congress. I am disappointed this provision was removed in conference, but I will join Chairman SHELBY in introducing this provision as separate legislation and I am confident we will prevail. The American system of Government depends on it.

I said congressional oversight has made U.S. intelligence better. It has also made Congress more informed about the intelligence agencies, just as any oversight committee comes to know its agencies well. From my vantage point, these agencies are national treasures, but they have a potentially fatal defect: they are not effectively portraying to the American people the crucial necessity of their work. I know, and my colleagues know, how relevant the intelligence community's work is to America. But the American people, by and large, do not know. The task for the intelligence community is to inform them, to make sure the American people know the role of intelligence in protecting their freedom and their safety.

A second task is for the intelligence agencies to treat the American people as their customers. In other words, the agencies must put priority and resources on their declassification efforts, they must respond faster to freedom of information requests, and they must use and disseminate open source information the public can use to understand their world better and make better decisions. The days when intelligence was exclusively a secret activity for an elite inside the beltway are over, and if intelligence is to retain its claim on the public's resources and rebuild the public's full respect, they ought to be over.

Over the past half-century, our leaders and our military used the best intelligence to keep us free and to help us prevail in the global struggle with communism. The CIA and its sister agencies went to the ends of the earth, the depths of space, and the inner reaches of the human personality, to find that intelligence. We all owe them a great debt. But this is a new, and far more open, world. The intelligence authorization bill provides the resources and the direction for success in that new world. But the enthusiastic support of the American people is not something Congress can authorize—if we could, we would authorize some for ourselves. Only the agencies themselves can accept this challenge, and earn the respectful, even admiring and grateful support of the great majority of its 260 million customers. In my view, Director Tenet and his colleagues are up to the challenge. I yield the floor.

THE PRESIDING OFFICER. Who yields time?

Mr. KERREY. Mr. President, I ask unanimous consent that when Senator TORRICELLI of New Jersey is finished all time be yielded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. TORRICELLI. Mr. President, under the original provisions of the Senate authorization bill for intelligence, Senator SHELBY and Senator KERREY contained in the authorization a provision reasserting the right of the Congress to know the truth about activities of the intelligence agencies.

The provision directed the President to tell all Federal employees that they can inform the Congress without fear of reprisal and prosecution of activities in which the intelligence agencies were involved. It was put into a provision. Indeed, the purpose of the provision was whether or not intelligence agencies were involved in improper or illegal activities.

The provision pointed out that Members of Congress have a clear right to know such information, and, indeed, constitutionally, since they are charged with oversight responsibility, cannot meet their constitutional duties without Federal employees knowing that they not only have the right and the responsibility but, indeed, are free to provide this information without retribution.

Tragically, under the direction of some of the President's senior advisers, it was suggested that the President might veto the entire bill unless this provision were removed.

I rise today to compliment Senator SHELBY, Senator KERREY, and the Intelligence Committee, and, indeed, this entire Senate for insisting upon this provision; and, at the same time to say with regret that it has been removed from the legislation.

It is hard to exaggerate the potential impact of the removal of this provision. The secret agency of the Government is overseen by only two congressional committees—both select committees, which meet understandably in secrecy. Those committees are charged with overseeing all of the intelligence agencies of this Government. But they rely upon the fact that the leadership of the intelligence community will come to the committee with truthful testimony and report on its activities. There is no one to rely upon but the leadership of the intelligence community itself. All other committees of the Congress know about the whistle-blower statutes. Federal employees will come forward if there are illegal activities in this Government, or improper activities.

The intelligence committee has no such assurance with regard to intelligence agencies of this Government. The Congress recognized this fact. Senator SHELBY and Senator KERREY recognized this fact. They acted appropriately.

It is with great regret that in voting for this conference report today I must report and note that the provision—that simple protection to allow this Congress to meet its responsibility—is no longer contained in the bill.

I do, however, note and compliment the Intelligence Committee for they have rejected unanimously the executive branch position as unconstitutional and have inserted language in the conference report making clear that the executive branch cannot unilaterally withdraw congressional prerogatives. So, while the original language is no longer contained in the bill, it is also made clear that the Congress is insisting upon its prerogatives.

I hope, Mr. President, that President Clinton will rethink his position, and next year and in future years will return to the question of authorization of the intelligence community. We once again will be in a position to place into legislation clear and effective protections that this Congress will be assured that every employee of the Federal Government will know that they have a right and a responsibility to come to this Congress whenever they believe improper or illegal activities are taking place and that they can do so without fear of retribution.

Mr. President, I support the conference report. But I do regret that the administration has insisted upon the removal of this very worthwhile provision.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

#### RECIPROCAL TRADE AGREEMENTS ACT OF 1997

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration S. 1269, for the purpose of laying down two first-degree amendments only.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1269) to establish objectives for negotiating and procedures for implementing certain trade agreements.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

#### AMENDMENT NO. 1594

(Purpose: To establish an emergency commission to end the trade deficit)

Mr. DORGAN. Mr. President, the Senator from North Dakota calls up

amendment No. 1594, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] for himself, Mr. BYRD and Mr. SARBANES, proposes an amendment numbered 1594.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DORGAN. Mr. President, let me take just 1 minute to describe the amendment. I offer the amendment on behalf of myself, Senator BYRD from West Virginia, and Senator SARBANES from Maryland. I hope that this amendment will be agreed to at some point. It is an amendment that deals with the trade deficit. It would establish an emergency commission to end the trade deficit, a commission that would be comprised of 21 members to study and analyze and evaluate the trade deficit and, over 16 months, make recommendations to the Congress on how to grapple with this vexing trade deficit.

Mr. President, we have had 21 years of consecutive trade deficits, each of the last 3 years the highest trade deficits in the history of this country. Our trade strategy isn't working. We need to change it. The question is how do we change it so that we end these crippling trade deficits. We propose a commission to make recommendations to Congress. I hope it will be successful.

Mr. President, with that I intend to come back to the floor and speak at greater length, but at this point I yield the floor.

Mr. INHOFE. Mr. President, I ask unanimous consent the Dorgan amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 1602

(Purpose: To establish a research and monitoring program for the national ambient air quality standards for ozone and particulate matter and to reinstate the original standards under the Clean Air Act)

Mr. INHOFE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 1602.

Mr. INHOFE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

#### TITLE —OZONE AND PARTICULATE MATTER RESEARCH

#### SEC. 01. SHORT TITLE.

This title may be cited as the "Ozone and Particulate Matter Research Act of 1997".