

committee, and we agreed that there should be a short-term extension to ensure continuity in State programs and to live up to our obligation to the American people to provide a world-class—in fact, the best—transportation system.

That is what these trust fund moneys are all about. I supported this short-term approach as a last resort. But I was under the assumption that leadership here would allow us to move the surface transportation bill to the floor so that we could begin working on it as soon as we returned from the recess. This has to happen. It was supposed to be one of the first things we brought up when we got back here.

The surface transportation bill made the States partners with the Federal Government. With this highway bill, we had more of a partnership than we had ever had before. The partnership was to build a stronger transportation system and to maintain a stronger transportation system. We are leaving the departments of transportation in all States in the lurch by putting off work for months now. This is no way to treat a partner. If we are truly partners with the States, their departments of transportation, then certainly we should be moving this legislation.

State transportation programs are continuing for the moment, but let's not kid ourselves. These programs are dying. They are on life support, but they are dying. We designed the short-term extension in a way that we would, in effect, force ourselves to work on this legislation after we came back after the first of the year. We are not following through on that. Our goal was to allow the States to spend unallocated balances for a couple of months to prevent a lapse in the programs. We didn't build an extra quarter or 6 months into that idle time.

I congratulate and I applaud Senator BYRD, the ranking member of the Appropriations Committee, who has been on this floor and steadfastly and continually and very effectively has brought to the attention of this body and the people of this country the need that we move to (and pass) the surface transportation bill. The closer we get to the election the harder it is going to be to do the right thing in regard to this legislation. If we wait until April, April is going to become July, and then July will become October. We should do this now. We should move this bill as quickly as possible.

There are some States, including the State of Nevada, where we are limited in terms of the amount of funds we can allocate because of bid-letting procedures. There are only certain times that we can let these contracts—sometimes because of weather in parts of the State of Nevada. As I have already described, because of the weather extremes, you cannot do work all year round in the State of Nevada. So we need to let these bids take place. As I have indicated, there are many parts of Nevada, in the high Sierras and other

parts of the State of Nevada, where the construction season is extremely short. Delays in reauthorization are going to lead to delays in roadbuilding and maintenance soon. A delay of several months can easily lead to a delay of a year or more in the colder climates of our State.

This applies all over the country. Nevada is currently the fastest growing State in the Nation. As I indicated, about 8,000 people moved to Clark County last month—that's the Las Vegas area. In order to address our long-term growth-related infrastructure needs, we need a 6-year bill; not a 3-month bill, not a 6-month bill. Six-month bills do not allow us to adequately plan for the future. It is unfair of this body, this Congress, to arbitrarily wreck the planning processes of 50 States and tens of thousands of highway construction workers and contractors whose livelihood depends on the timely and consistent flow of these highway funds. We must move forward. To not do so is simply unfair. It is unfair for the Congress of this country to hold up the gas taxes that the people pay every time they fill up their tanks at a service station while we continue collecting these huge sums of money every day to go into this trust fund. We are not being fair to the American public by not spending these trust funds.

We spend a lot of time in this body talking about States rights. Let's demonstrate our commitment to States by passing this highway bill. It is important we do it. It is important we do it tomorrow, not next month or the month after that. Let's get to work on reauthorization today.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. KENNEDY. Will the Senator yield for a unanimous consent request?

Mrs. FEINSTEIN. I will.

PRIVILEGE OF THE FLOOR—S. 1601

Mr. KENNEDY. Mr. President, I ask unanimous consent that two fellows in my office, Ellen Gadbois and Diane Robertson, be granted the privilege of the floor during Senate consideration of the cloning legislation.

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

Mr. BYRD. Will the distinguished Senator yield for a question?

Mrs. FEINSTEIN. Yes, I certainly will.

Mr. BYRD. Will the Senator object to my asking consent that I be recognized, after the distinguished Senator from California speaks, for not to exceed 20 minutes?

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. I thank the distinguished Senator and I thank the Chair.

Mrs. FEINSTEIN. Mr. President, I rise to speak in morning business. I understand I have 10 minutes by the

unanimous consent agreement of Senator REID.

The PRESIDING OFFICER. That is correct.

DROP IN COCAINE SEIZURES ON THE SOUTHWEST BORDER

Mrs. FEINSTEIN. Mr. President, Congress has increased the priority of the war on drugs in recent years. We've allocated nearly \$300 million in additional funds to the U.S. Customs Service since 1996.

And I think all of us know that the Southwest Border is still, without question, ground zero in U.S. drug interdiction efforts, with more than 70% of the cocaine and other narcotics entering this country across the 2,000 mile stretch of border between our country and Mexico.

To meet this threat Congress authorized more than \$100 million over the last two years to add 650 inspectors and employ state of the art technologies along the Southwest border. The President's budget in fiscal year 1999 calls for an additional \$104 million for Southwest Border narcotics efforts.

So you can imagine my surprise when I opened yesterday's edition of the Los Angeles Times to read the following:

The amount of cocaine seized at the commercial ports of entry along the U.S./Mexico border plummeted 84% in 1997, forcing U.S. Customs Service officials to develop a new drug fighting strategy and leaving them concerned about a backlash in Congress.

Well, Mr. President there is a backlash from this United States Senator because for five and a half years now I have sounded a constant drumbeat on Treasury and on Customs to stop the mixed missions of the Customs Department and understand that there is a major problem with cocaine coming across the Southwest Border. Frankly an 84% drop in seizures last year indicates that all of the money and all of the personnel we have been pumping in has simply not done the job. 84% at the Southwest border, and cocaine seizures are down 15% across the nation.

If someone could tell me the reason for the drop is because, overall, there is less cocaine coming into the country—I'd say, congratulations, our efforts have been successful.

But that doesn't appear to be the case. Narcotics intelligence officials continue to warn that an estimated 5 to 7 tons of cocaine enters this country every single day of the year. We are just not getting it.

If someone could tell me that the drop along the Southwest Border is because our efforts have been so successful, that the drug smugglers are going elsewhere—I'd say bravo, the taxpayers' money has been well spent.

But, again, that does not appear to be the case. Customs officials are widely quoted in news reports saying the problem is that the drug traffickers continue to stay two steps ahead of our interdiction efforts. And in fact, that is the case.

Let me again quote from this article:

Customs officials received a warning in June 1997 that portions of the agency's enforcement strategy at the ports had been compromised. A June 20, 1997 memo from Assistant Commissioner Robert S. Trotter to all Southwest border port directors warned that "traffickers have developed detailed knowledge and profiles of our port operations".

More than once, Customs officials have come into my office to tell me that—not only is it not possible to increase inspection of trucks and cars entering our border, obviously because there are so many of them—it is not really necessary, because today we are applying sophisticated technology, including electronic technology, random searches, and Customs' vast intelligence operations and all of that combined is enough to do the job.

Four years ago I went and spent a day at the Otay Mesa port at the Southwest border. I observed, directly adjacent to our Customs facilities, "spotters" who are individuals standing out on the street with radios and cellular telephones. I then went up to a hill overlooking the Customs facility and I watched the spotters work. They get on their phones and they talk to the trucks waiting to cross the border and they direct the trucks as to which lines they should be in to get through the border.

I mentioned this at the highest levels of the Treasury, both verbally and in writing. I said that we must do something about the spotters. Four years later, the spotters are still there, they are still operational. I am told that there is no law under which we can do anything about it. Unfortunately, at no time has Customs come forward in this four year period with any recommendations for any laws to be passed to deter this activity which is almost certainly an illegal conspiracy to bring cocaine into this country across the Southwest border.

The "random" searches that I have heard so much about are supposed to keep traffickers trembling in their big-rigs. But they have become so predictable that, by Customs' own admission, "traffickers know what cargo, conveyances, or passengers we inspect, how many of those conveyances are checked on an average day, what lanes we work harder, and what lanes are more accessible for smuggling."

Now, Mr. President, I am not insensitive to how difficult this task is, and I want to commend the extremely hard working men and women of the United States Customs Service. I know many of them personally. I know they work hard. I know they try to do their job. They put on those uniforms every day, they inhale all of these exhaust fumes, and they try to keep up with what has been a massive increase in traffic coming across the border.

But, Mr. President, I do not like to be told how effective our intelligence is, and how sophisticated our technology is, and how tough our enforcement efforts are—and then read reports

in the newspaper from Customs' officials about how easily the traffickers are walking all over us.

I do appreciate the candor from Acting Commissioner Sam Banks on the weaknesses in our efforts. And I understand that Customs is moving very rapidly to counter this 84% drop in seizures with a new operation entitled "Operation Brass Ring". They clearly know that what they are doing is insufficient.

For some time, I have believed that the mixed mission given by the Administration to the United States Customs Service creates a situation whereby the law enforcement functions of the United States Customs Service cannot be carried out properly.

You cannot run an agency with a mixed mission, especially a mission that has the kind of a diametrically different goals that Customs faces. Move the trucks by the millions, just do random searches, depend only on technology, and avoid statistics like the one that just appeared in the Los Angeles Times with an 84% drop in seizures in cocaine coming across the Southwest border.

I have urged the Administration to appoint a law enforcement person as the new Commissioner of Customs. I am heartened to understand that the Administration has just signed off on the appointment of Ray Kelly as the new Commissioner of the U.S. Customs Service.

I have worked with Mr. Kelly over the past few years as he has been the Secretary for Enforcement in the Treasury Department. I believe he is a straight shooter. He is a law enforcement person. He has an exemplary background. I hope that he will be able to redirect the Customs Service to understand that they do have a law enforcement mission. And, in fact, that that mission is to deter contraband from coming across the border of the United States.

We also know, Mr. President, that guns in large supply are moving from this country down to Mexico. These guns are used for two purposes. One is to give them to the cartels for their use and the second is for revolutionary insurrection against the government of Mexico.

I believe that the work of the United States Customs is really cut out for them. In the best of all worlds, trade will continue to increase across the Southwest Border, providing jobs and income for those on both sides of the border.

But if we are serious about the drug threat—as we say we are—we must demand that the law enforcement functions of deterring contraband be made the highest mission of the United States Customs Service.

Mr. President, I ask unanimous consent that an article entitled "Drop in Drug Seizures Worries U.S. Customs" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Feb. 4, 1998]

DROP IN DRUG SEIZURES WORRIES U.S.

CUSTOMS

(By H.G. Reza)

SAN DIEGO—The amount of cocaine seized at the commercial ports of entry along the U.S.-Mexico border plummeted 84% in 1997, forcing U.S. Customs Service officials to develop a new drug-fighting strategy and leaving them concerned about a backlash in Congress.

Bill Heffelsinger, assistant to acting customs Commissioner Samuel H. Banks, said Tuesday that inspectors working at the high-risk commercial ports on the Southwest border confiscated 2,383 pounds of cocaine last year, compared to 15,114 pounds in 1996.

Nationwide, the quantity of cocaine seized by the agency dropped 15% last year to 159,475 pounds, compared to 187,947 pounds in 1996, Heffelsinger added. The total number of seizures by customs agents and inspectors of all kinds of drugs was a record 26,240 nationwide last year, authorities said.

Acting Commissioner Banks, in an interview Tuesday, said the drop in cocaine seizures is worrisome. "You look at those numbers and you want to be your own worst critic," Banks said. "You're going to be asked questions on [Capitol] Hill, and we have to provide answers [for how to stop the flow of drugs]."

Rep. Ron Packard (R-Oceanside) said Tuesday he was disappointed by customs' failure to seize more cocaine at the commercial ports.

"Congress has directed almost every possible resource toward drug interdiction efforts, including more agents, better technology and several hundred million dollars in additional funding," said Packard. "These are not the results we expected. If interdiction is down, the American people deserve some answers."

Customs officials hope to find answers through Operation Brass Ring, a new nationwide drug interdiction strategy launched by the agency this week. Officials said the operation is part of a broader five-year program by the Office of National Drug Control Policy to reduce by 50% the amount of illegal drugs entering the country and, according to a news release, "was designed almost entirely in the field by . . . inspectors, investigators and union representatives."

Memos obtained by The Times show that the new strategy comes at a time of concern among customs union officials over possible political repercussions resulting from the drop in the amount of cocaine caught at the commercial ports.

A Nov. 28, 1997, National Treasury Employees Union memo noted that Congress had authorized \$64 million in funding in 1997 for 657 new enforcement positions along the Southwest border as part of Operation Hard Line, the drug interdiction plan in effect at the time.

Hard Line was launched in 1995 after The Times reported that there had been virtually no cocaine seizures at the biggest commercial ports on the U.S.-Mexico border, where thousands of trucks cross daily.

The union memo predicted that "no doubt Congress will be highly upset with these [1997] figures . . . border drug interdiction is becoming a major political issue in Washington."

Another union memo on Dec. 22 said new "enforcement operations" were needed and urged inspectors to be flexible and imaginative in their approach to drug interdiction.

"The objective being to increase our seizures so customs and [the union] don't get their heads handed to them by the politicians in Washington when the budget meetings start in March," the memo said.

Robert Tobias, president of the employees union, said he would not apologize for the blunt talk in the memos.

"This was me doing my job as president to inform [members] what the stakes are," said Tobias. "There's nothing wrong with telling people that if you don't get off your duff you're in danger of losing your job. Brass Ring is a wake-up call to all of us involved in fighting drugs."

On Tuesday, Banks said he was pleased that the president's proposed customs operating budget for 1999, publicly announced Tuesday, was \$1.8 billion, up from \$1.7 billion in 1998. That budget must still be approved by Congress.

Banks said he was willing to publicly admit some of the agency's enforcement problems "so we can get the issue out there, even if it's critical to us."

"I'm willing to take it on the chin if necessary to get the message out, so we can focus on the drug problem," said Banks. "I want to get the message out to the American public so they can deal with it in the community and in schools."

Banks said Brass Ring will "dramatically increase drug seizures" at the 24 points of entry on the U.S.-Mexico border.

"The push for Brass Ring is to turn up the heat internally and get people focused. We're trying to get people focused. We're trying to put the heat on ourselves," Banks said.

A Nov. 28, 1997, report by the union said that "intelligence sources are reporting that 5 to 7 tons of illegal drugs are being smuggled from Mexico to the U.S. every day."

In the interview Tuesday, Banks said he does not dispute the union's figures.

Concern over the declining cocaine interdiction figures arose in September, when Banks reported in a memo to customs employees that he had met with Gen. Barry McCaffrey, head of the Office of National Drug Control Policy. The Sept. 18, 1997, memo said that "we were asked some tough questions about the effectiveness of our various operations, and we did not always have convincing answers."

Heffelsinger said the biggest problem in customs' interdiction plan had been its predictability.

In 1997, 3.5 million trucks and rail cars crossed into the United States from Mexico at the commercial ports along the border from Texas to California and about 30% were inspected for narcotics, customs officials said. An equal number of trucks and rail cars crossed in 1996, and 25% were inspected for drugs that year, they added.

However, "we aren't as unpredictable as we would like to be. The goal of Brass Ring is to get back to being unpredictable," Heffelsinger said.

Customs officials received a warning in June 1997 that portions of the agency's enforcement strategy at the ports had been compromised. A June 20, 1997, memo from Assistant Commissioner Robert S. Trotter to all Southwest border port directors warned that "traffickers have developed detailed knowledge and profiles of our port operations."

Trotter said that spotters, commonly used by drug rings to warn of enforcement activity at the ports, "have determined what cargo, conveyance or passengers we inspect, how many of those conveyances are checked on an average day, what lanes we work harder and what lanes are more accessible for smuggling."

Banks acknowledged that customs has still not learned how to defeat the spotters, who work in the open on the U.S. side at the gates to the commercial ports.

"There's no question that people are sitting at the ports, shepherding loads and acting as guides," said Banks. "We're trying to

turn the tables on them and use them against themselves. Counter surveillance is part of [the Brass Ring strategy], but I can't say more."

Mrs. FEINSTEIN. I thank the President, and I yield the floor.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator's time has expired. Under a previous unanimous consent agreement, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair, and I, again, thank the distinguished senior Senator from California for her usual characteristic courtesy.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. BYRD. Mr. President, it is imperative that the Senate turn immediately to the consideration of the Intermodal Surface Transportation Efficiency Act of 1997. We now have less than 45 days remaining in which the Senate will be in session between today and May 1, 1998.

On May 1 of this year, our State highway departments throughout the land and our transit providers across the Nation will be forbidden by law from obligating any new Federal highway or transit funds. That is the drop-dead date. That is the deadline.

What will it mean to individual States when they no longer can move forward on a comprehensive highway construction program? What will it mean to your State? What will it mean to mine? What will it mean for our Nation's highway construction workers when they are thrown out of work, when that paycheck stops and when they have to struggle to put a meal on their family table?

What will it mean for our urban transit systems when they must cease progress on projects, projects that are needed to minimize congestion and to move our constituents to work, to schools, to places of worship, to child care centers, and back home?

It will mean disruption, deprivation, and, in cases where some construction projects need to go forward for the sake of safety, it will mean that accidents, injuries, and perhaps even death may be the result because of our delay—our inexcusable delay. There is no excuse for the delay.

On Monday of this week, the President sent his formal budget request for fiscal year 1999 to the Congress. That budget calls for the overall obligation ceiling for our Federal aid highway programs to be frozen. Now hear that! This is the President's budget, calling for the Federal aid highway program to be frozen for each of the next 6 years at the level enacted for FY 1998, namely, \$21.5 billion.

The President ran for office the first time on a strong platform recommending more infrastructure in this country, more highways, safer bridges, but the President now is proposing an

absolute freeze on highway spending for the next 5 years; never mind the tremendous unmet needs that exist across this Nation for bridge and highway construction, and for safety improvements; never mind a critical provision in the Taxpayer Relief Act of 1997, which is there by virtue of an amendment that was offered by my friend and colleague from Texas, Senator PHIL GRAMM; never mind that critical provision in the Taxpayer Relief Act of 1997, a bill that the President signed into law with much fanfare, and rightly so, last year.

That bill included a provision transferring the 4.3 cent gas tax—that had been used for deficit reduction since 1993—into the highway trust fund, so that it could not be used for other programs, instead of the highway program, but could be used to address these serious highway deficiencies. But even with this new source of revenue to the trust fund—roughly \$7 billion per year—the President's budget now calls for the overall Federal obligation ceiling for highways to increase by how much? Not one copper cent! Not one penny; not one penny! Over the next 5 years, it is to be frozen.

Under the President's budget, the uncommitted balance of the highway trust fund will grow and grow and grow, like topsy. Based on estimates that I have received from the Congressional Budget Office, under the committee-reported bill, the unspent balance of the highway trust fund will grow from \$25.7 billion at the end of this fiscal year to more than \$71.8 billion at the close of the authorization period covered by the next ISTEA legislation.

At that time, therefore, there will be almost \$72 billion that would just sit unspent in the highway trust fund; \$72 billion paid by you out there, paid by you, the buyers of gasoline; \$72 billion paid by our constituents—yours, I say to the distinguished Senator from California, and mine—paid by our constituents at the gas pump—money that will be deposited into the highway trust fund but not used. Not used.

Under the President's budget, the trust fund balance would grow even larger, since his 5-year highway freeze is some \$9.6 billion less than would even be authorized in the committee-reported bill which we debated on this Senate floor for about 21 days last fall.

I do not believe that a majority of this body supports the notion that highway spending should be frozen for the next 5 years, while the unspent balance in the highway trust fund rises by roughly 300 percent over the next 6 years. I am confident that a majority of this body does not support that idea.

I do believe, however, that it is incumbent for this Senate to take up the highway bill, to take it up immediately and to make it clear that we do not support the President's proposal for a 5-year freeze on highway spending.

Let the President hear that message, loud and clear. We do not support a 5-