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# CROSS BORDER TRUCK AND BUS OPERATIONS

## JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

AND THE

SUBCOMMITTEE ON TRANSPORTATION AND RELATED AGENCIES

OF THE

COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JUNE 27, 2002

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# CROSS BORDER TRUCK AND BUS OPERATIONS

**THURSDAY, JUNE 27, 2002**

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
*Washington, DC.*

U.S. SENATE, SUBCOMMITTEE ON TRANSPORTATION AND RELATED AGENCIES, COMMITTEE ON APPROPRIATIONS,
*Washington, DC.*

The Subcommittees met, pursuant to notice, at 9:44 a.m. in room SR–253, Russell Senate Office Building, Hon. John B. Breaux, Chairman of the Subcommittee, and Hon. Patty Murray, Chairman of the Subcommittee on Transportation and Related Agencies of the Senate Appropriations Committee, presiding.

## OPENING STATEMENT OF HON. JOHN B. BREAUX, U.S. SENATOR FROM LOUISIANA

Senator BREAUX. The Committee will come to order. Good morning, everyone. Thank you all for being with us. We are here today to have a joint hearing on a very important subject and I am delighted to have our full Committee Chairman, Senator Hollings, with us, and also the Chair of the Subcommittee on Appropriations Transportation who has been a leader in this area, and has been the person who has brought a great deal of the legislation through the appropriations process to help solve the problem that we are continuing to address and to oversee this morning. We are delighted that Senator Bond from the Appropriations Committee is with us as well for the hearing.

Senator Hollings, would you like to—Chairman Hollings.

## STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Chairman HOLLINGS. Yes, thank you a lot, Mr. Chairman, and I thank Chairman Murray and her leadership here on this appropriations level, and what I want to do, is comment. Mr. Secretary, our Commerce, Science, and Transportation Committee has had the best of relationships with you. Right after 9/11 we immediately took up the $15 billion for the airlines. We passed out an airlines security bill, reorganizing the entire institution unanimously from the Committee, and unanimously out of the U.S. Senate, and simi-

larly with seaport security. On rail security, Mr. Secretary, we have had difficulties.

We appropriated before Christmas, authorized—it is right there at the desk—$5 million, and we have yet to see the Administration move on that particular measure, and in the meantime over the year now we have had three hearings on Amtrak. Everybody knows the problems.

The problem is the Congress and the White House over the years. They come up with certain needs. There is a group that want to appropriate for those needs, provide for them, and there is a group that thinks they ought to be run as a private entity. Of course, we know differently. It was run as a private entity after World War II up until 1970 when I was here on this Committee, and the private entities came begging for us to please, for Lord's sakes, take this passenger rail service, and they gave us back the equipment and everything else, all except the tracks, but we have limped along with half measures for some 30 years.

So it is not necessarily this President and this Congress, but we know what has happened, and so in the last year we have had three hearings trying to get you up here. The last one you would not appear, but you sent Mr. Jackson, and he came with more questions than answers. In fact, I admonished him. I said, look here, we are having the hearing. You are asking us all these questions. No help whatsoever, but we worked in a bipartisan fashion, and we reported out in April, by a vote of 20 to 3, an Amtrak bill with reforms, and then out of the blue you go running down to the Chamber of Commerce like, "Oh, we have got to do something about Amtrak and we have got to have reforms," after we have been trying to get you up here for a year.

You did not come to the Committee. You have not commented on our bill, S. 1991. By a vote of 20 to 3 it is right there on the calendar. Everybody in the Department of Transportation knows abut it. They got the Committee report, and incidentally on the reforms we have got an itemized breakdown of every section of the financing. You put out a statement this morning to give them $100 million temporarily till the end of July, when we are going on the August break, because of another crisis.

It is Government by fear. We had a President around here once who said the only fear we had to fear was fear itself. Now you have all got Government by fear, all kinds of announcements, and trying to manufacture this one. We are ready to go. We are ready for the Administration to lead and not run down to the Chamber of Commerce talking about "reforms, reforms," like we never thought of it.

We have got in here all kinds of financial reforms. The new head—I have been corresponding, of course, with him, talking to him, Mr. Gunn. He is outstanding, I think, a breath of fresh air. He has already gotten rid, of the 80-some vice presidents, 60 of them. He has cutoff operations that we cannot afford and everything else of that kind, but we have got to make a commitment. We have got to have Federal involvement and Federal leadership, and all we are getting out of the Department of Transportation, Mr. Secretary, is crisis appearances. We have not gotten anything on this bill, and we would appreciate it at the committee level if

you would work with the Committee and—criticize. Tell us what you do not like about the Amtrak bill.

But we have seen all that separation of the passenger service from the rails, and just be a passenger service, like you mentioned down at the Chamber of Commerce. Maggie Thatcher did that. I do not know how many people in England they have killed so far this year, but they did separate the infrastructure out, and they had 25 bidders, and 15 have gone broke, and the other 10 are back downtown in London begging for more money. It is not working that way.

Every successful high-speed passenger rail service has been run by the Government, run efficiently, run within fiscal bounds, and run with governmental leadership, and that is the only way we are going to have it. On this Committee, we have got Commerce, Space, Science, Transportation, we appropriated $180 million for a railroad in space, but we cannot get a dime out of you folks on the ground, and we got only $100 million this morning in your release.

We have got over half in a bipartisan—over half the Senate has already sent a letter to the President—we are going to put $200 million in that emergency supplemental. We are ready to put up the money. If the President wants to put a million people out on the highways and byways all in disarray here, let him do it. But really, we have had no leadership whatsoever from your Department on Amtrak, and do not act like you all are leading this morning, that you've got it together.

As we move, we saw where 3 days ago you were going to give them $130 million, and then, night before last, you started talking, well, you might go ahead with the $200. Now you have come this morning with a release for $100. It's just "The Perils of Pauline," and the room all crowded up as to whether or not we are going to have a rail system in America. That isn't playing; tell Karl Rove.

Secretary MINETA. Mr. Chairman, do you want me to respond?

Senator BREAUX. Well, I want to thank the Chairman of the Committee. I am not sure that was about Mexican trucks, but I think the message is pretty clear.

[Laughter.]

Chairman HOLLINGS. That is right.

Senator BREAUX. I want to recognize—Norm, we are going to give you a chance to comment on that, but I want to recognize the Chair of the Appropriations Subcommittee, as I said, who has been the person who was in a leadership role in putting the money in it to take care of this Mexican truck situation which we are having a hearing about today, and Senator Murray, any opening statement?

## STATEMENT OF HON. PATTY MURRAY, U.S. SENATOR FROM WASHINGTON

Senator MURRAY. Thank you very much, Senator Breaux, and before I speak to Mexican trucks I know that Secretary Mineta is also going to make a statement on Amtrak and its financial condition this morning. My Transportation Appropriations Subcommittee held a hearing 1 week ago today on Amtrak's financial crisis, and at that time President Bush's Federal Railroad Administrator testified that the Administration was doing everything in its power to

keep Amtrak operating and keep the commuter railroads that depend upon Amtrak running. But a week later a solution still has not been finalized, and we are told that an agreement has been reached in principle between the Administration and Amtrak's board of directors, but nothing has been signed.

This has been a very tortuous process for Amtrak's riders, their employees, and the tens of thousands of daily rail commuters, and worst of all, this really was avoidable. The Appropriations Committee has provided Amtrak with every penny the Bush administration has requested for the railroad and then some.

Secretary Mineta sits on Amtrak's board of directors, his Deputy Secretary Michael Jackson serves for him on both the board's Finance Committee and is chairman of the board's Audit Committee. Even so, the Administration has voiced surprise over the sudden financial crisis of Amtrak. I have to say that it is very hard to understand how the situation was allowed to reach such a dire strait without the Administration being fully aware of it, so I do not want to detract from the importance of the discussion on Mexican trucks. I hope we can take some time this morning to question the Secretary on a number of Amtrak issues, including, I will have questions for you on whether saddling Amtrak with more loans when the railroad is already $4 billion in debt is an appropriate solution, whether we can get Amtrak through the current fiscal crisis, whether we just will not face another bankruptcy crisis a few miles down the road if we do accept the Bush Administration's budget request for next year, and if the Administration is asking Amtrak to engage in financial transactions that will only undermine rather than improve its credibility with its creditors and debtors.

So I will be asking those questions when we do get to the questions, but I do want to thank Senator Breaux for having this hearing this morning, and before we hear from our witnesses I think it is important to remember how we have reached this point.

When President Bush took office, he reversed a policy from the Clinton administration and announced his intention to open all U.S. highways to Mexican trucks and buses. That policy change was prompted in part by the decision of a NAFTA arbitration panel that states the United States was in noncompliance with the treaty. Both before and after President Bush's decision, the two Subcommittees represented here this morning received numerous reports by the DOT Inspector General, the General Accounting Office and others, that criticized the overall safety of the Mexican truck fleet and questioned whether DOT could guarantee safety on our highways once that border was opened.

These reports indicated that under the Administration's original plan to open the border, there would be a woefully inadequate number of safety inspectors to handle the influx of Mexican trucks; trucks would be crossing into the United States at border stations where no Federal inspectors would be present; Mexican trucks would be given interim authority to drive on all U.S. highways after filling out only a cursory questionnaire; there would not be enough space at inspections stations to remove unsafe Mexican trucks from service; there would not be any way for U.S. and State truck safety inspectors to validate and verify the licenses, insur-

ance, and driving records of Mexican truck drivers, or the validity of the operating authority granted to Mexican firms.

There would not be any comprehensive mechanism to check whether Mexican trucks driving on U.S. highways complied with U.S. weight limits; and this is an especially important concern, since trucks in Mexico are allowed to operate at heavier weights than trucks in the United States. And finally, many critical safety rulemakings that were to be published by the Federal Motor Carrier Safety Administration were not going to be in place by the time the Bush administration planned to open the border.

When the transportation appropriations bill reached the floor of the House of Representatives last year, the House voted by an overwhelming bipartisan majority, more than 2 to 1, to absolutely prohibit Mexican trucks from traveling beyond the border commercial zone during fiscal year 2002. That action, it was said, constituted a blatant violation of NAFTA. When the Senate Subcommittee marked up its bill, we took what I believe to be a much more balanced and responsible approach. As a Senator who voted for NAFTA, I, along with Senator Shelby, addressed the safety, inspection, and enforcement deficiencies head on and established a series of strict safety conditions that would have to be met before Mexican trucks could travel on U.S. highways.

Under the Senate bill, the Inspector General was required to certify that those conditions have been met prior to the border being opened. Our bill engendered a great deal of debate on the floor. We spent about 2 weeks debating that measure. After more than a dozen roll call votes, including two successful cloture votes, the bill passed by an overwhelming margin.

When we went to conference with the House of Representatives, the Senate bill stayed largely intact with one notable change. Rather than having the Inspector General certify that safety conditions had been met so the border could be opened, we allowed the Inspector General to issue a thorough report on the DOT's efforts to comply with each of these conditions. Secretary Mineta was given the responsibility to respond to each of the IG's findings and open the border only after he certifies in writing to Congress that opening the border will not present an unacceptable safety risk.

As was the case when the bill passed the Senate, the conference report included more money for Mexican truck safety enforcement than the Administration requested. That is where we find ourselves today. The Inspector General is here to tell us what has and has not been done by the Department so far. Secretary Mineta is here to tell us his intentions regarding whether and when the border will be opened. There is no question that at the end of this process we will have safer highways than under the President's original proposal.

I want to commend the Department of Transportation for its work so far. However, I have to say it is somewhat disappointing that it took such specific language out of Congress for the DOT to take the steps that it has. I hope the Department will bring the same energy to improving truck safety in the United States that they have brought to implementing the measures to open the border. As the Inspector General knows, there are several vulnerabilities in our truck safety program right here at home that

need immediate attention. More needs to be done to test and verify the capabilities of our drivers. A lot more needs to be done to combat fraud in the distribution of commercial drivers' licenses, and the DOT needs to improve its record of taking almost 4 years to complete major truck safety regulations. The efforts to ensure the safe passage of Mexican trucks on our highways has already, I believe, had a very positive effect in limiting the number of Mexican trucks that plan to enter the U.S. to those trucking firms that are really prepared to meet all of the statutory safety requirements in the transportation appropriations bill.

In 1995, when the border was first expected to be opened, the Department received almost 200 applications from Mexican trucking firms seeking to operate in the United States. To date, the Department has received roughly 10 percent of that number, representing fewer than 100 trucks. I do expect that number will grow in time. If the DOT does its job, that growth will not represent a safety risk. The IG will tell us this morning that there are still many inspection units that are not electronically linked to the necessary data bases to ensure the validity of Mexican driver's licenses, operating authority, and insurance. Those enhancements are expected shortly.

Perhaps most importantly, more needs to be done not just in implementing the safety requirements, but also in preparing to prosecute those who would violate them. As Mr. Mead will testify this morning, they continue to find Mexican truck drivers who wantonly disregard the requirement to stay within the commercial zone. This has been going on for years, and the States are ill-suited to prosecute those cases. Mr. Mead will testify that only two States, California and Arizona, have currently adopted a law to prosecute truckers that have deliberately strayed beyond the commercial zone.

I know that Secretary Mineta will agree that rapid action needs to be taken to address that loophole in the area of truck safety. As in the case of all transportation safety, our safety requirements will only be as effective as the enforcement mechanisms that surround them. During the lengthy Senate debate over the transportation bill last year, I stated over and over again my belief that free trade and safety can progress side by side. While more work needs to be done, I think that over time it will be clear that trade and safety are not mutually exclusive.

Senator BREAUX. Thank you, Chairman Murray, for your statement.

## STATEMENT OF HON. CHRISTOPHER S. BOND, U.S. SENATOR FROM MISSOURI

Senator BOND. Thank you very much, Mr. Chairman.

Mr. Secretary, welcome, and Inspector General Mead, welcome. I begin by unabashedly telling you I am a supporter of NAFTA, and I believe most of my colleagues are, despite what some of our actions in this body may lead you to think.

To put it bluntly, our borders with Mexico should have been open to Mexican trucks long ago. That is an old debate. I will not go into it. I will, however, remind my colleagues here today that our constituents are hurt every day that the moratorium on Mexico-domi-

ciled trucks remains in place. I represent an agricultural State, and it is important to note that the freeze on cross-border trucking has impacted U.S. agricultural exports to Mexico. In the year 2000, they accounted for almost 12½ percent, or one-eighth of U.S. agricultural exports, and they produced a trade surplus of well over $1 billion. With 85 percent of U.S.-Mexico trade moving by truck, the success of our agricultural exporters and thus the success of our farmers who depend upon the prices that they receive because of the demand from Mexico hinges on efficient cross-border trucking operations.

I understand from the Inspector General that you are making progress to assure the safety. We need to hear today what additional steps need to be taken, and where you need assistance and what you are doing, but I view the implementation of NAFTA trucking provisions as a way to create additional opportunities for U.S. agricultural and other exports to Mexico, which is a vital neighbor, an ally, and our second-largest trading partner.

In other words, I may not agree with the actions that Congress has taken, but I do intend to do whatever I can to help move the process along. The people and particularly the farmers in Missouri need to see that process moved.

But to switch tracks, Mr. Secretary, to what I guess everybody is going to be talking about today, I would like to mention Amtrak. It appears to me that Amtrak has a full head of steam bellowing down a one-way track. There is no question in my mind that before Congress gets out the checkbook to the tune of an additional $200-plus million, we need to be assured that some real reforms are taking place. At the current rate, Amtrak is burning over $1 billion a year with no apparent end in sight. I am really disappointed in the way things are being run.

I am pleased that you have come to an agreement with Amtrak last night. We will hear the details today, but without getting into too many of the details before a final agreement is actually signed, I would like to hear your perspective on whether the agreement addresses short-term needs or some of the concessions intended to serve our long-term objective of continued passenger rail service.

I understand that there is a request before your Department for loan guarantees of $200 million. If one takes the relatively old-fashioned and mundane approach of reading the statute, section 260.5, the eligible purposes of TEA–21, state in subsection (b) that "financial assistance under this part cannot be used for railroad operating expenses." Now, in spite of that fact, I know some of my colleagues are asking that you approve the loan guarantee. I wonder if you see another potential available resource that Amtrak could utilize, and perhaps you will be able to tell us what your agreement with Amtrak envisions in terms of a loan guarantee under this or some other additional legislation.

Thank you, Mr. Chairman.

Senator BREAUX. Senator Dorgan, any comments?

**STATEMENT OF HON. BYRON L. DORGAN,**
**U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, just briefly, let me just respond on this issue of Mexican trucks. I am tempted—I understand our

full Committee Chairman fired both barrels on Amtrak, so I will——

Chairman HOLLINGS. It is on the record.

Senator DORGAN. Well, without knowing what he said, let me associate myself with his remarks.

[Laughter.]

Senator DORGAN. I know that is dangerous, but on this subject I also know that he and I agree.

Let me just say on the Mexican truck issue, I think this is one more example of trade agreements that dumb down and diminish our abilities in dealing with issues affecting workers, our environment, public safety—there is not a ghost of a chance, not a ghost of a chance that by the middle or the end of this year we are going to have anything that resembles something ensuring that it is safe for the American people to have Mexican long-haul trucks moving across this country.

There is not a ghost of a chance of that happening, and if any of you wonder about it, go back and read the San Francisco Chronicle in which the San Francisco Chronicle reporter did something no one in this Congress has done, traveled 1,800 miles in 3 days with a Mexican trucker who slept 7 hours during the 3 days, did not have a logbook that was up to date, drove equipment of questionable safety.

The fact is, you are trying to put two standards together that cannot be easily put together, and if ever they are put together in a way that is protective of the safety of the American people, it is going to take a long, long time, and frankly I wanted a much harsher provision in the bill when it went through the Senate. I did not prevail on that, but in any event, I do not think the Administration is going to have a ghost of a chance of meeting the standards imposed by the Murray-Shelby amendment, in my judgment.

So I just want to say that I do not think trade agreements ought to be about compromising safety; and frankly, if we proceed on this track there will be Americans whose safety is jeopardized on the roads of this country, because there is not any way in which you create a system where the long-haul truckers from Mexico are going to have the same standards and the same safety capabilities as long-haul truckers in this country.

I have more to say, but I will do that later.

Senator BREAUX. Thank you, Senator. Senator Smith, any comments?

## STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Senator SMITH. Mr. Chairman, I have a statement. In the interest of time I would include it in the record.

Senator BREAUX. I thank the Senator for his consideration.

Senator SMITH. And I share Senator Dorgan's concern about safety. I voted with Senator Murray and Senator Shelby on this, and if it is going to happen, we have to make sure that safety is not compromised. If we can assure safety then Americans can get the benefit of the competition that would come with cross-border trucking. However safety should not be sacrificed on the altar of free trade, and I think we ought to hold that position.

[The prepared statement of Senator Smith follows:]

PREPARED STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Thank you, Mr. Chairman. I strongly support the efforts of the Administration to safely open our border with Mexico and comply with the terms of the North American Free Trade Agreement (NAFTA). The United States signed NAFTA almost ten years ago; since that time, trade with Mexico has climbed significantly. Mexico now accounts for about 12.5% of total U.S. merchandise trade and Mexico is our second largest trading partner. I believe the benefits will be even greater once NAFTA is fully implemented.

We all agree that safety and security must not be compromised in allowing trucks domiciled in Mexico to operate in the United States. It is precisely these concerns that led Congress to enact additional safety inspection, audit, and investigation requirements as part of the Department of Transportation Appropriations Act for fiscal year (FY) 2002. The Act also funded an increase in the number of federal and state inspectors to ensure the requirements are properly enforced. I supported these provisions and believe that if they have been properly implemented, the border can be opened safely in the near future.

Trade with Mexico is important to Oregon. In 2001, trade with Mexico approached $900 million. Exports from the State have grown at an average annual rate of 12% since 1994. Mexico is a particularly important market for transportation equipment, industrial machinery, electronics and metal products. I want to encourage this positive trend.

That said, I fully support continued vigilance on safety matters involving *all* trucks operating on our nation's roads and highways. While I understand today's witnesses will testify that we are now prepared to inspect , audit and monitor the operation of Mexican-based trucks, the true test will come once the border is open and these trucks are actually operating in the U.S. We must ensure that U.S. safety regulations are properly enforced and any unsafe drivers and vehicles are taken out of service. Frankly, stricter enforcement of our safety standards should apply to all carriers if we are serious about improving highway safety.

I would like to thank Secretary Mineta, Administrator Clapp, and Inspector General Mead and their staffs for their hard work and diligence in preparing the opening of the border and meeting the tight deadlines for implementing the provisions of the Appropriations Act. I hope the President will lift the moratorium on Mexican trucks soon, so that we can reap the full benefits of NAFTA.

Senator BREAUX. Well, thank you, Senator.

With that, Secretary Mineta, welcome to the Amtrak/Mexican truck hearing.

[Laughter.]

Senator BREAUX. You heard from the Committee, and we welcome you, and Mr. Joseph Clapp, who is Administrator of the Motor Carrier Safety Administration is here, as well as our Inspector General for the Department of Transportation, Mr. Ken Mead. Mr. Secretary, we will start with you.

## STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY JOSEPH CLAPP, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Secretary MINETA. Mr. Chairman, Madam Chairwoman, and members of the Subcommittee, I am very pleased to have this opportunity to be here with all of you, and I want to thank you for this hearing to share with you the progress that the Department of Transportation has made to ensure a safe operation of Mexican-domiciled carriers under the North American Free Trade Agreement's transportation access provisions.

Now, before I get into the discussion of today's hearing topic, if you would indulge me, I would like to begin with a brief discussion

of another timely issue that has been brought up, and that is the Amtrak financial crisis. As all of you are aware, last night we were able to conclude a meeting with the Amtrak board of directors which resulted in excellent progress toward a resolution of the short-term financial crisis facing the railroad.

We reached an agreement in principle on the approach that we will take which will involve a combination of immediate assistance from the Department of Transportation along with a joint request of Amtrak and the Administration for congressional support. We are continuing to meet this morning in order to finalize the details of what has been agreed upon in our Monday and Wednesday meetings. I think the total of those two meetings on those 2 days were somewhere in the area of about 11 or 12 hours.

No action will be necessary by the Congress this week to keep the trains running. We will seek your help after the Fourth of July recess, and I look forward to consulting with the Members of both the House and the Senate about our proposal.

Now, the proposed agreement includes several important first steps about reform of Amtrak, measures that will help accomplish three important objectives: improving Amtrak's financial discipline and performance, making Amtrak's financial and operating performance transparent to the public, and providing the executive branch and the Congress with a better understanding of Amtrak's long-term assets and liabilities, and its cost control and revenue options. In short, what we are trying to interject is more business discipline, more accountability, and more complete and timely information for Congress and the executive branch about performance. I look forward in the coming weeks to working with all of you on the longer-term reform issues facing Amtrak.

I really cannot say much more about the details of the agreement this morning, but I would like to express my personal thanks for the work done by the board of Amtrak and by our staff at the Department of Transportation in the last several days. In particular, I would like to thank Mayor John Robert Smith, the chair of Amtrak's board of directors, who has devoted a great deal of time and energy to resolving this crisis. As a former mayor, I know that his being away from home for this extended period of time has not been easy, so I appreciate his leadership and his dedication to reaching a solution of this crisis.

Senator BREAUX. Mr. Secretary, excuse me. At that point does Chairman Hollings or Chairman Murray or anybody else have any comments on this?

Chairman HOLLINGS. I would just add, thank you, Mr. Chairman, that we did submit to the Department of Transportation and the Secretary the bill and the report. Our last hearing was in March. We submitted this in April. We heard absolutely nothing about it. I will submit it again, along with over a dozen reforms, and we agree with you that we have got to work with the States. We have got to have a new financial plan, new cost accounting methods and everything else like that. In fact, we got from your Controller a lot of these ideas. We have been working with you, but to go down to the Chamber of Commerce and act like, "Oh, wait a minute, nothing is happening and we have got to save Amtrak"—and what you have done with $100 million, as of last night, after

82 hours, heck, we got together $200 million in 1 hour, over half of the Congress, and your loan guarantee is really Chairman Murray's money. She will give you the $100. She will give you the $200. She will give you the $300. It is her money.

[Laughter.]

Chairman HOLLINGS. It is the Congress' money. I mean, you act like you have got some money to give around. I mean, hell, we have been trying to give you the money, and you are having discussions about whether we are going to have a loan, and we have already granted it. If you could only accept it and get on with, not with the politics, but get on with Amtrak. We are going to get us a national rail system in this country.

Secretary MINETA. Mr. Chairman, just to get to the point of an outline of a policy that has taken close to a year of back-and-forth discussion between the Department of Transportation and the White House, and so that has taken a great deal of time. We helped you get your rail security bill. I helped get the statement of Administration policy on that. We do have your rail bill, S. 1991. One of the problems facing it is the total cost of that bill, and unless there are some other reasons for getting into some reforms and changes that would be needed, we cannot move forward on the bill as it is right now.

Chairman HOLLINGS. The bill has got the reforms. They have an amendment. Let us put an amendment up that supports your view and the Administration's view to cut the money, but I mean, time is of the essence. We are just diddling around and waiting. The Congress legislates, you folks execute, so do not worry about it. Just tell us your views. That is what we want to know. It is a bipartisan initiative, and really with respect to the States we are playing catch-up ball with the States. You got lines going from Oregon up to Washington, one of the finest lines there is; the State of California they have got on the ballot already this year a full $1 billion rail initiative, and you folks are sitting around meeting 13 hours over $100 million. Come on, let's get going.

Senator BREAUX. Chairman Murray.

Senator MURRAY. Mr. Secretary, I just have to add to what Chairman Hollings said. This is very frustrating. When you came before the Appropriations Committee, or actually Mr. Jackson did, we were told the $521 million request 4 months ago was a placeholder till we had a long-term proposal from the Administration, which we have been asking for since that time and still do not have, to the best of my knowledge, unless it was the chamber speech that you gave. And that is not a proposal, a legislative proposal that Chairman Hollings can look at.

But my question to you immediately, before we move on to the next topic, is, you have just outlined that you are going to request some short-term, I understand, $100 million loan guarantee. Is that going to be in the form of an official request, and is that official request going to be for an appropriation, an emergency supplemental, or are you going to officially ask for a loan guarantee?

Secretary MINETA. We will not be asking—what we contemplated on this short term, this $100 million right now, is not a loan guarantee.

Senator MURRAY. The Administration's first part, your first——

Secretary MINETA. First tranche.

Senator MURRAY. Your first $100 million is not a loan guarantee?

Secretary MINETA. We are not doing a loan guarantee under the RRIF program.

Senator MURRAY. What is the $100 million that you have already agreed on with Amtrak to get you through the next several weeks?

Secretary MINETA. That is a straight—it is a loan, but it is not under the RRIF, we are not executing it under the RRIF program.

Senator MURRAY. Under what authority are you asking for a loan guarantee for that $100 million? You are giving them a direct loan under what authority?

Secretary MINETA. Under the RRIF program.

Senator MURRAY. Under the RRIF program you are going to give them a direct loan of $100 million, and then you are going to ask us for what, an appropriation?

Secretary MINETA. We will then be asking for two—let us see, an additional $270, or the difference between $270 and the—so it will be the $170, in terms of the request that they were asking for.

Senator MURRAY. You will be asking us for what, another loan, or an appropriation? Are you going to be asking for an emergency—that would be under an emergency——

Senator MURRAY. So we are going to get an official request from the Administration for $170 million in our supplemental, or separate from that, an emergency request from the Administration for $170 million on top of what we have here already, in terms of our supplemental.

Secretary MINETA. For a total of $270, because as I recall, the emergency supplemental at $55 million——

Senator MURRAY. That is correct.

Secretary MINETA. And in my conversations with Senator Byrd last week, I think he, or maybe it was this week, but he was talking about taking that to, I believe $205, and so that was left on that basis.

Senator MURRAY. OK, well, I want to understand what we are going to be asked to do. You have already approved a $100 million direct loan to Amtrak to get them through the next several weeks. You are now going to give us an official request for an emergency supplemental on top of everything else we have here. We are not going to take it out of homeland security or anywhere else. You are asking for $170 million for Congress to do an emergency supplemental for them, is that correct?

Secretary MINETA. The whole determination about whether this will be a loan or a loan guarantee is something that I would like to come and discuss with you.

Senator MURRAY. Now, when you say loan or loan guarantee, are you talking about your $100, or our $170?

Secretary MINETA. The $170.

Senator MURRAY. The $170.

Secretary MINETA. That is right. The additional——

Senator MURRAY. OK, I am—take apart the $100 you have already done. The $170 you are asking, is it going to be an emergency supplemental request, or is it going to be in the request of a loan?

Secretary MINETA. It will be in the emergency supplemental request.

Senator MURRAY. And when will we get that direct request from you?

Secretary MINETA. I would hope that we would be able to do that soon after your return from the July 4 recess; I think you come back on July 8.

Senator MURRAY. OK, then if I am to understand you, you are not asking us to assume further debt for Amtrak. You are asking us for an emergency supplemental of $170 million, correct?

Secretary MINETA. That is correct.

Senator DORGAN. Would you yield on that point? Mr. Chairman, I wonder if she would yield just for a brief——

Senator BREAUX. Senator Dorgan.

Senator DORGAN. Could I ask the Secretary how——

Secretary MINETA. May I correct this, Senator Dorgan?

It still has not been determined, I guess, as to whether it will be a loan or a loan guarantee.

Senator MURRAY. Well, Mr. Secretary, let me tell you, there is going to be a huge difference in that request. If you ask this Congress to give Amtrak $170 million in some kind of loan guarantee, that is just further debt to Amtrak, and it is a further debt to our transportation appropriations bill at a time when you have requested less than half of what they say they need in the coming fiscal year.

So I would like to know as quickly as possible whether you are going to ask for an emergency supplemental, which is very different than asking us for a loan guarantee, and will have a very different financial impact on Amtrak.

Secretary MINETA. We will get that to you.

Senator DORGAN. If I might just inquire, if all of this occurs, on what date would Amtrak then run out of money when it has depleted the interim financial——

Senator MURRAY. I would answer, Senator Dorgan, it completely depends on whether they are asking us for a loan guarantee that is further debt, whether we are looking at a supplemental, how much that request is. But I can tell you this, even in our appropriations request for next year, if we do not get the Administration to request the $1.2 billion that Amtrak is telling us that they need, we are back in this conversation we have had this last week by the end of September.

Secretary MINETA. What we are requesting is to get us through this fiscal year.

Senator DORGAN. So that is the end of September?

Secretary MINETA. Yes, sir.

Senator DORGAN. At which point Amtrak would run out of money again?

Senator MURRAY. That is correct.

Senator BREAUX. Senator McCain.

Senator MCCAIN. Well, I think in the interest of straight talk we are going to give Amtrak what they need to keep operating. I think we all know that it is not going to shut down, and I think it is important to note that this will be one in a long series of bailouts that we have given to Amtrak since 1971, and there are some of us, Mr.

Secretary, that believe, as you do, that fundamental reforms have to be made in Amtrak. I do not think any Member of Congress is interested in having Amtrak shut down, and even if they went into bankruptcy they would not shut down, would they, Mr. Mead?

Mr. MEAD. That is correct.

Senator MCCAIN. I mean, so I am intrigued sometimes by the media, will Amtrak keep rolling, et cetera. The real question is, will we 2 or 3 or 4 years from now be back again with another bailout for Amtrak, as we have every few years since 1971?

I think also that the previous administrators of Amtrak who testified at that table that Amtrak was on the road to financial self-sufficiency, time after time after time, ought to be held to account. The board of directors of Amtrak ought to be held to account. Actually, they all ought to be replaced immediately, because they did not carry out their fiduciary duties but there are some of us who want reform, as you do, Mr. Secretary, as Mr. Mead has recommended for a long period of time, and I hope we can make those reforms even if it means shutting down a line in some Senator's State. And if we do not get those reforms, then we will continue to have a hemorrhage of American tax dollars.

I really hope that we can come up with an Amtrak reform package that all of us can agree to, and if that requires some continued Government assistance, that is fine, but it is my understanding they are now $4.6 billion in debt, is that right, Mr. Mead?

Mr. MEAD. Very close to that.

Senator MCCAIN. A $4.6 billion debt is a pretty heavy debt load.

Mr. Chairman, I know that the purpose of this hearing was to discuss the Mexican truck issue. Coming from a border State that is most affected by this issue, I believe that it is time we moved forward on it, as was our treaty commitment of NAFTA, which has had enormous beneficial effects economically to both the United States and Mexico, and I hope we can get this issue finally resolved, and I thank you, Mr. Chairman.

Senator BREAUX. Thank you, Senator McCain.

Mr. Secretary, let us now get on—if you could summarize, Mr. Secretary, your statement on the Mexican truck situation, we will proceed to questions.

Secretary MINETA. As all of you know, over the last several months we have been working diligently to try to address the 22 specific requirements that Congress established in the fiscal year 2002 Transportation Appropriations Act as conditions to the opening and the operation of Mexican carriers outside the existing commercial zones. I am pleased to report to you today that we have succeeded in meeting the requirements of section 350 of that legislation.

The Act also directs the Department of Transportation Inspector General to conduct a review and to evaluate the Department's performance in 8 areas. It is my understanding that you received this report on Tuesday.

The IG has raised a few issues, and we are working hard to address them, but I want to thank the Inspector General, Ken Mead, for the insight and analysis that he and his staff provided over this period. I can assure you, on behalf of President Bush, that we will not open the border if doing so poses an unacceptable safety risk.

However, we expect to fully address all of the issues that have been identified in the IG's report to allow the border to open in the near future, and I will touch very briefly this morning on some of the steps we have taken to meet those requirements.

Administrator Joe Clapp and the staff of the Federal Motor Carrier Safety Administration have done an outstanding job in hiring, training, and deploying enforcement staff for border operations. By the end of this month we will have hired and trained 144 border inspectors charged with conducting roadside inspections of vehicles and drivers. We have made significant progress in meeting our target for hiring safety auditors to conduct inspections of carriers prior to the issuance of any provisional authority, and by the end of June we will have hired all 67 safety auditors, and we will train and deploy all of them by July 29. We have also begun to hire safety investigators, even though we will not need them to perform safety audits for another 6 to 18 months. In the meantime, these staff will augment our inspection and audit staff. In all, by midsummer, DOT will have more than four times the number of personnel we had at the border in mid-2001.

On another front, we issued final regulations in March to establish this new safety oversight system. These regulations help ensure that Mexico-domiciled carriers operating in the United States meet the same Federal motor carrier safety regulations that U.S. and Canadian carriers must satisfy. Mexican carriers will need to demonstrate that they have a drug and alcohol testing program, a system of compliance with U.S. hours-of-service requirements, valid insurance with a U.S.-registered insurance company, and adequate vehicle maintenance and driver records, all before receiving operating authority.

Mexican vehicles operating beyond the commercial zones must display a valid CVSA, or Commercial Vehicle Safety Alliance inspection decal, and we have signed agreements with all four border States requiring inspections of all Mexico-domiciled vehicles not displaying a valid CVSA decal.

Finally, Congress directed FMCSA to conduct 50 percent of the safety audits and compliance reviews onsite in Mexico and we will do so. My written testimony offers greater detail on these and other steps that we have taken.

Two other areas deserve special mention today. First, the U.S. Patriot Act requires a security check on any holder of a commercial driver license that has a hazardous materials endorsement. The regulation to implement this provision is currently under departmental review. In a nutshell, Mexican and Canadian drivers transporting hazardous materials will not operate beyond the commercial zone until security driver license checks comparable to those performed on U.S. drivers have been done. In addition, FMCSA will continue to work with TSA, Customs, INS and other Government agencies involved in border security to ensure that our safety programs are consistent and integrated with their security-focused initiatives.

Second, we will keep improving our border infrastructure to handle increasing traffic volumes in the future. In this regard, I awarded $54 million in grants to the four southern border States for infrastructure improvements at border inspection stations.

In closing, the Department remains firmly committed to ensuring the enhanced safety and security of commercial vehicle operations at our borders. As you know, DOT has inspected Mexican trucks and buses since 1995, and the guidance and additional resources provided by Congress have allowed us to continue to build on that strong program.

I want to thank the Governments of Mexico and Canada for their cooperation in identifying and resolving a number of operational issues, and I thank this Committee in setting high standards for opening the southern border to help bring about the unprecedented preparations that I have discussed today.

Again, I thank you for this opportunity to highlight our efforts.

[The prepared statement of Secretary Mineta follows:]

PREPARED STATEMENT OF HON. NORMAN Y. MINETA, SECRETARY, DEPARTMENT OF TRANSPORTATION

Madam Chairwoman, Mr. Chairman and Members of the Subcommittees, it is a pleasure to appear before you today and to have the opportunity to report on the progress that the U.S. Department of Transportation has made to ensure the safe operation of Mexico-domiciled carriers once the President acts to implement the North American Free Trade Agreement's (NAFTA) transportation access provisions along our Southern border.

***Introduction***

The Department is appreciative of the work of Congress on the FY 2002 Transportation and Related Agencies Appropriations Act (the Act). The bill offered clear guidance on the necessary elements required to assure the compliance of Mexican commercial truck and bus companies with U.S. safety regulations.

Section 350 of the Act set forth 22 steps that needed to be taken before the Department could process any applications from Mexican carriers during the fiscal year. Also, it required the DOT Inspector General (IG) to conduct a comprehensive review of border operations within 180 days of enactment.

We have worked diligently to take the steps required of us in the Act, and I am pleased to report that we have succeeded. This was an intensive effort on the part of many agencies and individuals. It could not have been accomplished without the able leadership of Administrator Joe Clapp and the commitment of the staff of the Federal Motor Carrier Safety Administration (FMCSA), the Department, other Federal agencies, and our State partners. In the process, we have worked closely with the Mexican Government in numerous face-to-face meetings.

As I indicated, the Act directs the DOT IG to conduct a review of our Southern border operations, and evaluate the Department's performance. During these past months, Department staff met regularly with the IG staff to discuss the progress on these issues. I particularly wish to thank Inspector General Kenneth Mead. The insight and analysis he and his staff provided us over this period proved extremely useful in assisting us to appropriately focus our activities.

Now that the Inspector General has issued his report, by law I must evaluate it and determine if I can certify that opening the border does not pose an unacceptable safety risk. Only after this certification is made and the President lifts the moratorium, will Mexico-domiciled motor carriers be allowed to operate outside the commercial zones. The Inspector General has raised a few issues, and we are working hard to address them. I want to assure you, on behalf of President Bush, that the border will not be opened unless it can be done safely. We do expect to fully address all issues identified in the IG's report, to allow the border to open in the near future.

***Requirements of the Appropriations Act***

The Act called for numerous conditions to be met before DOT could process applications for Mexico-domiciled motor carriers to operate outside of the border commercial zones this year. All of these conditions have been met. The chart attached to my testimony illustrates the tasks and the progress to date. Today I would like to highlight several of our major activities.

**Staffing**

One of the most significant challenges was to hire, train, and deploy enforcement staff for border operations. The enforcement staff is composed of three distinct groups: Border Inspectors, Safety Auditors, and Safety Investigators. The Border Inspectors are charged with conducting roadside inspections of vehicles and drivers. The Safety Auditors will conduct safety audits of carriers prior to the FMCSA's issuance of provisional authority to operate beyond the commercial zones. The Safety Investigators will conduct Compliance Reviews of these carriers within their first 18 months of operations—after they have established an operating history.

By the end of this month, we will have hired and trained 144 individuals to perform Border Inspector functions. In addition to Border Inspectors, we have made significant progress in meeting our target for Safety Auditors. By the end of June, we will have hired all 67 Safety Auditors and all of these Safety Auditors will be trained and deployed by July 29. We have also recently issued selection certificates for Safety Investigators in Arizona and California. In addition, the review of employment applications for Texas Safety Investigators is underway.

Although we have begun to hire Safety Investigators now, they will not be required to perform safety audits until approximately 6–18 months from now, when they will be performing the actual audits. In the meantime, these staff will augment our inspection and audit staff.

**Oversight Process for Mexico-domiciled Carriers**

The Act directed DOT to revise and complete its May 2001 proposed safety oversight regulations. On March 19, we issued final regulations establishing this safety oversight system. These regulations help ensure that Mexico-domiciled carriers operating in the U.S. will meet the same Federal Motor Carrier Safety Regulations (FMCSRs) that U.S. and Canadian carriers must satisfy. Now, Mexican carriers will be required to demonstrate that they have met U.S. requirements, such as having a drug and alcohol testing program, a system of compliance with U.S. hours-of-service requirements, valid insurance with a U.S. registered insurance company, and adequate vehicle maintenance and driver records, all before receiving operating authority.

The regulations also provide that DOT will conduct a safety audit of each carrier prior to the issuance of provisional operating authority, and a compliance review prior to granting the carrier permanent operating authority. Congress also directed FMCSA to conduct 50% of the safety audits and compliance reviews on-site in Mexico—and we will do so. In addition to the safety audit and compliance review requirement, our oversight includes a process for expedited enforcement action against those carriers committing specified offenses, such as operating without a commercial driver's license (CDL), operating vehicles that have been placed out of service, and operating an uninsured vehicle.

**Vehicle Inspections**

We have issued regulations requiring Mexican vehicles operating beyond the commercial zones to be inspected every 90 days and to display a valid Commercial Vehicle Safety Alliance (CVSA) inspection decal. This provision applies to the provisional operating authority period and for 36 months after receiving permanent authority. We have also signed agreements with all four border States requiring State inspectors to conduct inspections of all Mexico-domiciled vehicles not displaying a valid CVSA decal during the provisional period, and for a period of three years after permanent authority has been issued to the carrier.

**Other Requirements**

- *Weigh In Motion Scales*. Weigh in Motion (WIM) Scales are in place at 8 of the 10 highest volume crossings, and static scales are in place for enforcement at all commercial crossings. This exceeds the 5 WIMs as required by the Act. The remaining 2 WIMs will be in place by year-end.
- *Verification of License Status*. Inspectors will electronically verify the status and validity of the licenses of 100% of the Mexico-domiciled CMV drivers operating beyond the commercial zones—exceeding the requirements of the Act.
- *DOT Numbers*. A distinct DOT Number will be assigned for Mexico-domiciled carriers engaging in operations beyond the commercial zone. The number must be affixed to the vehicle in a visible location.
- *Staffing at Crossings*. FMCSA or State motor carrier inspectors will be on duty at all crossings that U.S. Customs Service has designated commercial crossings during operating hours.

- *Operating Authority Violations*. State inspectors will enforce regulations concerning operating authority of Mexico-domiciled carriers or notify FMCSA staff so that it may take any enforcement actions necessary.
- *Facilities on Federal Sites*. We have constructed appropriate inspection facilities and out-of-service parking areas to provide adequate capacity for conducting inspections and detaining-out-of-service vehicles. These improvements include paving and site utility work, installation of portable office buildings, construction of inspection bays, and construction of parking areas.
- *Related Rules and Study*. As required by the Act, we have published the New Entrant Rule for U.S. and Canadian carriers, the Rule for Certification of Inspectors and Auditors, the Border Staffing Study, and initiated a Weigh in Motion site determination study.

**Hazardous Materials Driver Requirements**

The USA Patriot Act requires a security check on any holder of a CDL that has a hazardous materials endorsement. The USA Patriot Act applies to new applications and renewals. The regulation to implement this act is currently under Departmental review. We have had several conversations with both Mexican and Canadian officials about the requirements of the law. Mexican and Canadian CMV drivers operating vehicles transporting hazardous materials will not be permitted to operate beyond the commercial zones until security driver license checks, comparable to those performed on U.S. drivers, have been done.

FMCSA is working with the Transportation Security Administration (TSA) and the U.S. Customs Service to address overall security aspects of cross-border operations. FMCSA expects to continue to meet with TSA, Customs, the Immigration and Naturalization Service, and other government agencies involved in border security, to ensure that our safety programs are consistent and are integrated with their security-focused initiatives.

The United States Customs Service is the lead agency for border security. Motor carrier safety inspectors have been trained to look for security risk indicators on commercial vehicles. If indicators are present, motor carrier inspectors have been instructed to notify Customs immediately. The partnership US DOT and the States have with Customs at the various ports is important in the detection of security risks at the border.

**Border Infrastructure Grants**

Beyond our immediate efforts to assure the safe operation of Mexican carriers, we are also focused on improving our border infrastructure to handle increasing traffic volumes in the future. In this regard, I announced the awarding of grants to the four southern border States for infrastructure improvements at border inspection stations. With the distribution of these funds, we look to strengthening our partnership with the States in the inspection process.

Funds for the Border Infrastructure Program (BIP) were made available by Congress from the Federal-aid highway revenue aligned budget authority to be distributed among the States of Arizona, California, New Mexico, and Texas. Of the $54 million available, $2.1 million was awarded to Arizona; $8.9 million to California; $2.2 million to New Mexico; and $40.8 million to Texas. Four criteria were used to award the grants: safety, number of commercial vehicles, delays, and traffic patterns.

The objective of the grant program is twofold: the safe operation of Mexico-domiciled commercial motor vehicles operating in the United States and improved traffic flow at border crossings in the four border states. Examples of the types of projects funded under the BIP are construction of eight new commercial motor vehicle safety inspection facilities at the border in Texas, upgrade and final construction of an automated port of entry at the Santa Teresa, NM, border crossing, and construction of additional inspection bays and parking areas for out-of-service vehicles at the commercial vehicle enforcement facility at Calexico, CA.

***Conclusion***

In closing, I want to say that the Department is committed to ensuring the enhanced safety and security of commercial vehicle operations at our borders. At our Southern border, DOT has been inspecting Mexican trucks and buses since 1995. The guidance and additional resources provided by Congress have allowed us to continue to build on that strong program. By mid-summer, DOT will have more than four times the number of personnel we had at the border in mid-2001.

We are confident that we have achieved our shared goal of setting a firm safety foundation for expanded cross-border operations. When operating authority is grant-

ed, Mexico-domiciled carriers, as well as U.S. and Canadian carriers, will all be governed by the same safety standards when operating in the United States.

At this time we have received a small number of applications from Mexico-domiciled carriers to operate beyond the commercial zones. To date, 31 Mexican long-haul carriers have applied for authority to operate in the interior of the United States, and 101 have applied to operate within the commercial zones.

As you can see from these numbers, it appears that interest among Mexican carriers for expanded authority is beginning at a somewhat gradual pace. Applications from Mexico-domiciled carriers will be processed as they are submitted. However, the border will not be opened to expanded cross-border access until I have certified that the border can be safely opened, and the President has lifted the moratorium on Mexico-domiciled carrier access.

In addition to taking the steps set out for us by Congress, we have been working closely with our Canadian and Mexican counterparts to identify and resolve the numerous operational issues involved in opening the border to cross-border motor carrier traffic. I want to thank the governments of both Mexico and Canada for their cooperation. Our goal is to work together to realize the promise of one market in North America, while ensuring the safety and security of our citizens.

Madam Chairwoman, Mr. Chairman, the actions of your committees in creating the FMCSA and in setting high standards for opening the Southern border have been instrumental in bringing about the unprecedented preparations I have discussed today. You are to be commended for your roles in these achievements.

I look forward to your questions today and to working with Congress in the months ahead. I thank you once again for the opportunity to highlight the steps we have taken to ensure that our NAFTA commitments are fulfilled in a safe and secure manner.

COMPLIANCE MATRIX

IMPLEMENTATION OF SECTION 350 OF THE DEPARTMENT'S FY 2002 APPROPRIATION ACT

| Action | Status |
|---|---|
| **1) Rule:** Rule issued to establish the safety audit. 350(a)(1)(A). | **Completed:** On March 19, 2002, the Department issued an Interim Final Rule (IFR) titled ''Safety Monitoring and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the U.S.'' This rule not only established the safety audit as an additional safety compliance tool but also outlined a comprehensive program for tracking the safety performance of carriers once they have received provisional authority and/or certificate of registration. |
| **2) Policy:** Mexican carriers with 3 or fewer vehicles need not undergo on-site safety audit, however FMCSA must ensure 50% of all audits are on site and on-site inspections must cover 50% of estimated truck traffic in any year. 350(a)(1)(C). | **Completed:** On April 3, 2002 FMCSA issued a policy titled, ''Selection Process for Safety Audits and Compliance Reviews of Mexico-Domiciled Carriers Operating Beyond the Commercial Zones'' that goes beyond the 50% on-site review mandate by requiring FMCSA safety auditors and safety investigators to conduct on-site, pre-authority safety audits on at least 85% of all Mexico-domiciled carriers that apply for operating authority beyond the commercial zones. |
| **3) Rule:** Rule issued to require compliance review and to ensure Mexican carrier receives satisfactory rating prior to permanent authority. 350(a)(2). | **Completed:** On March 19, 2002, the Department issued an IFR titled ''Safety Monitoring and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the U.S.'' The IFR modifies the FMCSRs to include section 385.109 that requires compliance reviews of Mexico-domiciled long-haul operations to be conducted consistent with our existing safety fitness evaluation procedures in part 385 and that the carrier receive a Satisfactory safety rating. |
| **4) Policy:** Compliance reviews for 3 or fewer vehicle carriers need not be done on-site, however FMCSA must ensure (1) 50% of all compliance reviews are on site and (2) any Mexican carrier with 4 or more vehicles that did not undergo an on-site safety audit receives an on-site compliance review. 350(a)(2)(A).(B). | **Completed:** On April 3, 2002, FMCSA issued a policy titled, ''Selection Process for Safety Audits and Compliance Reviews of Mexico-Domiciled Carriers Operating Beyond the Commercial Zones'' requiring an on-site compliance review within 18 months on at least 50% of all Mexico-domiciled carriers that have been granted provisional operating authority to operate beyond the commercial zones. |

COMPLIANCE MATRIX—Continued

IMPLEMENTATION OF SECTION 350 OF THE DEPARTMENT'S FY 2002 APPROPRIATION ACT

| Action | Status |
|---|---|
| **5) Policy and Agreements:** Federal & State inspectors to electronically verify the license of all hazardous materials drivers, all undergoing a level I inspection, and 50% of all other long haul drivers. 350(a)(3). | **Completed:** On April 3, 2002, FMCSA issued a policy titled, ''Driver's License Verification'', that goes beyond the Section 350 mandate by requiring all Federal and State inspectors to electronically verify the licenses of all (100%) Mexico-domiciled drivers operating commercial motor vehicles beyond the commercial zones until such time as base traffic volume can be ascertained. |
| **6) Rule:** Gives a distinct DOT # to long haul vs. commercial zone carriers. 350(a)(4). | **Completed:** On March 1 9, 2002, the Department issued two IFR titled ''Revision of Regulations and Application Form for Mexico-Domiciled Motor Carriers to Operate in the US Municipalities and Commercial Zones on the US-Mexico Border'' and ''Application by Certain Mexico-Domiciled Motor Carriers to Operate Beyond US Municipalities and Commercial Zones on the US-Mexico Border''. Each of these rules require the FMCSA to assign distinctive USDOT numbers that distinguishes a carrier as a commercial zone or long haul motor carrier by adding a ''Z'' or ''X'' suffix after the USDOT number. |
| **7) Rule and Agreements:** Requires inspection of all long haul Mexican commercial vehicles that do not display a valid CVSA decal (until carrier has permanent authority for 3 years). 350(a)(5). | **Completed:** On March 1 9, 2002, the Department issued an IFR titled ''Safety Monitoring and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the U.S.'', that modifies Part 385 of the FMCSRs to include section 385.103 CVSA decal. Section 385.103 requires each Mexico-domiciled carrier granted provisional operating authority to operate beyond the commercial zone to have a current decal attesting to a satisfactory inspection by a CVSA inspector on every commercial motor vehicle operated in the US. In addition, FMCSA has entered into cooperative agreements with the lead MCSAP agencies from the 4 border states to provide the resources necessary to implement this requirement. |
| **8) Agreements:** Requires State inspectors to enforce FMCSRs or notify FMCSA staff of violations. 350(a)(6). | **Completed:** FMCSA has entered into cooperative agreements with State enforcement representatives from the 4 border states to provide the resources necessary to implement this requirement. |
| **9) Agreements:** 5 of 10 highest volume crossings are to have WINS and requires inspectors to verify weight of long hauls where present and equip all crossings with scales suitable for enforcement. 350(a)(7)(A). | **Completed:** On June 24,2002, WIM systems are operational in eight of the 10 highest volume crossings (Otay Mesa, Calexico, Nogales, Columbia, Brownsville, Pharr, El Paso (Ysleta) and El Paso (Bridge of the Americas). In addition, portable/static scales have been purchased and are present at all commercial crossings. |
| **10) Contract:** Initiates a study to determine where other WIMs should be placed. 350(a)(7)(B). | **Completed:** On April 15, 2002, FMCSA executed a contract with the Texas Transportation Institute and the Texas Department of Public Safety to determine the need and potential placement of additional WIMS. |
| **11) Rule:** FMCSA has issued a policy to ensure no long haul vehicle will be granted authority unless they have proof of insurance by a US licensed insurance carrier. 350(a)(8). | **Completed:** On March 19, 2002, the Department issued an IFR titled ''Application by Certain Mexico-Domiciled Motor Carriers to Operate Beyond US Municipalities and Commercial Zones on the US-Mexico Border'', that requires that Mexican long haul carriers use a US licensed insurance carrier. |
| **12) Agreements:** Requires that long haul trucks only cross where a certified inspector is on duty. 350(a)(9). | **Completed:** FMCSA has entered into cooperative agreements with State enforcement representatives from each of the 4 border states to provide the resources necessary to implement this requirement. |
| **13) Agreements: Requires long haul trucks to cross only where adequate capacity exists to conduct a sufficient number of meaningful inspections and where 005 parking is available. 350(a)(9)**. | **Underway: Federal facilities funds have been provided to GSA for site and utility work necessary for inspection bays and out of service parking. Work is scheduled for completion by 6/30/02.** |

COMPLIANCE MATRIX—Continued
IMPLEMENTATION OF SECTION 350 OF THE DEPARTMENT'S FY 2002 APPROPRIATION ACT

| Action | Status |
|---|---|
| **14) Rule:** Publishes New Entrant Rule 350(a)(10)(A). | **Completed:** FMCSA issued this Interim Final Rule (IFR) on May 13, 2002, and made it effective January 1, 2003, to ensure safe operations by new entrant motor carriers. This IFR requires a safety audit be conducted, among other things, for new entrant carriers, to ensure understanding and compliance with all Federal motor carrier regulations, etc. The comment period ends July 12, 2002. |
| **15) Rule:** Publishes Inspectors/Auditor/SI Certification Rule 350(a)(10)(B). | **Completed:** On March 19, 2002 FMCSA published a Final Rule titled, Certification of Safety Auditors, Safety Investigators, and Safety Inspectors that establishes procedures to certify and maintain certification for inspectors, auditors and investigators. |
| **16) Policy:** Publishes Border Staffing Study 350(a)(10)(C). | **Completed:** On May 14, 2002, FMCSA published a study and a methodology for estimating border staffing needs. |
| **17) Policy:** Publishes policy on leasing 350(a)(10)(D). | **Completed:** On November 16, 2001, FMCSA issued a policy titled, Enforcement of Sections 205 and 219 of the Motor Carrier Safety Improvement Act (MCSIA) that clarified leasing issues and specifies penalties for violators. |
| **18) Policy:** Publishes policy on scope of authority enforcement 350(a)(10)(E). | **Completed:** On November 16, 2001, FMCSA issued a policy titled, Enforcement of Sections 205 and 219 of the Motor Carrier Safety Improvement Act (MCSIA) that defined Federal and State enforcement procedures regarding carriers that operate without registration or beyond the scope of their authority and identifies penalties for violators. |
| **19) Agreement: Mexican hazardous materials drivers must meet same security requirements as US hazardous materials drivers. 350(b).** | **Pending: FMCSA is awaiting issuance of the USA PATRIOT Act rule currently under Departmental review. Until such time as the rule is issued and an agreement with the Mexican government is in place establishing similar requirements on hazardous materials drivers, Mexican hazardous materials drivers will not be permitted to operate beyond commercial zones.** |
| **20) Border Infrastructure Grants:** $54M in Border Infrastructure Grants (BIP) was earmarked for border improvements and construction.. | **Completed:** On June 5, 2002, the Secretary awarded $54M to the border states of Arizona, California, New Mexico and Texas. Of the $54M, $2.1 million will be awarded to Arizona, $8.9M to California, $2.2M to New Mexico, and $40.8M to Texas. |
| **21) IG Review: The DOT Inspector General conducts a comprehensive review of border operations within 180 days of enactment to verify specific requirements are met. 350(c)(1).** | **Underway: A report documenting the findings of the IG's review of the Department's border operations should be completed by 6/30/02.** |
| **22) Certification By The Secretary:** The Secretary of Transportation must certify in writing that the opening of the border does not pose an unacceptable safety risk to the American public. 350(c)(2). | **Pending:** The Secretary's certification will be considered based upon review of the Inspector General's report. No operations will be permitted outside the commercial zone until certification is made. |

Senator BREAUX. I would like to go ahead and get Mr. Mead's statement. We have a vote.

## STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

Mr. MEAD. Thank you, Mr. Chairman. The law says we are supposed to do an audit within 180 days of its enactment. We did so. We provided a report to Secretary Mineta, and you have that report. The law also built in another audit requirement for us within the next 180 days.

I do want to say that I think Congress established a very good process here. It set up a number of safety requirements, enabled us to bring information directly to the attention of the Secretary as this process was unfolding, and that allows for a more expeditious closing of safety gaps.

The requirements, in fact, were intended to ensure that some basic safeguards would be in place before trucks would begin long-haul operations. For example, long-haul Mexican drivers must have a valid commercial driver's license, they must comply with U.S. hours-of-service rules, each and every long-haul truck must be inspected every 90 days and display a special sticker and a special DOT identification number. I think that is a particularly strong provision. Carriers must undergo safety audits before provisional long-haul authority is granted, and another review within 18 months before being granted permanent authority.

Our work has shown that there is a direct correlation between the condition of Mexican trucks and the level of inspection resources. The more likely the chance of inspection, the better the condition of the vehicle. The percent of inspected vehicles placed out of service has declined from 44 percent in 1997 to 34 percent in 2001. To date, 40 carriers have applied for long-haul authority. I have no way of forecasting when or to what extent the long-haul carriers will apply, but I agree with your assessment in your opening remarks, Senator Murray. Twenty-six carriers indicated they intended to operate a combined total of 118 vehicles, and you say, what happened to the other applications? Well, the other applications were incomplete; they did not say how many vehicles they intend to operate long-haul in the United States.

We found that the Department and the Federal Motor Carrier Safety Administration in fact made very substantial progress in meeting the Act's requirements to hire and train inspectors, establish inspection facilities, and develop safety processes and procedures for Mexican long-haul carriers. There are a number of actions in process and planned that will require aggressive follow-through. We have reviewed the Federal Motor Carrier Safety Administration's plans for these actions and, with a couple of exceptions, we think they are credible and achievable within the next 45 to 60 days.

We have made a series of recommendations to the Secretary. He has agreed to act on them. I think it is important to note that a lot of our efforts to date have focused on verifying that resources, facilities and communications systems are in place to implement the basic requirements of the Act. The key once the border opens will be how effectively these resources are used and procedures are implemented. We will be maintaining this carefully during our future audit work.

Another matter that we have raised with the Secretary, and I want to call to your attention, is that currently only two States, Arizona and California, authorize their enforcement personnel to take actions against vehicles operating without authority. State law enforcement officials can take action if they find reckless driving, or if the truck has mechanical failure, but if the truck is there illegally, in 48 States they cannot take action.

In 2000, DOT issued a regulation saying the States had until the end of 2003 to fix that and pass a law. Well, only two have done it, so if you find a truck operating illegally in, say, the State of Colorado or Louisiana, State law enforcement officers cannot take enforcement action.

In 1999, we reported that at least 52 Mexican-domiciled motor carriers operated improperly in 20 States, outside the 4 border States, and we know this problem has continued. We have discussed this with the Secretary, the Deputy Secretary, and Mr. Clapp, and we think there can be a ready fix to the situation. Rather than waiting for every State to pass a law, we think the Administration can issue a regulation saying that operating illegally is, in fact, a safety violation, which would enable the States to enforce it, and we would like to see that happen.

I will conclude now, and we can get into details later on if you would like, with questions.

[The prepared statement of Mr. Mead follows:]

PREPARED STATEMENT OF HON. KENNETH M. MEAD, INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION

Madam Chairman, Mr. Chairman and Members of the Subcommittees:

We appreciate the opportunity to testify on the implementation of commercial vehicle safety requirements at the U.S.-Mexico border. The Fiscal Year (FY) 2002 Transportation and Related Agencies Appropriations Act (the Act) directed the Office of Inspector General (OIG) to conduct a comprehensive audit of border operations to verify whether safety requirements are in place.[1] The Act requires us to conduct another audit within 180 days and at least annually thereafter.

We completed our first required review within the stipulated 180 days and provided a report on this review to the Secretary on June 25, 2002. The Act requires the Secretary to address our findings on safety requirements and certify in writing that opening the border does not pose an unacceptable safety risk.

Congress established a good process in the Appropriations Act. It enabled us to bring information to the attention of the Secretary, Deputy Secretary, and the Federal Motor Carrier Safety Administration (FMCSA) as our work progressed so that actions could be taken and plans could be adjusted to close safety gaps.

The requirements that were written into this year's Appropriations Act were intended to ensure that some very basic safeguards will be in place when the U.S.-Mexico border opens to long-haul commercial traffic. For example, the law requires Mexican drivers to comply with U.S. hours-of-service requirements and have valid commercial driver's licenses (CDL) that will be checked as those drivers enter the United States in long-haul designated vehicles. Trucks that will be used in long-haul operations must be subjected to intensive inspections every 90 days and must display a unique Department of Transportation (DOT) number that identifies them as long-haul vehicles. Carriers must possess insurance issued by companies licensed in the United States, and must undergo safety exams before being granted provisional long-haul authority and will then have to undergo a safety compliance review within 18-months before that authority can become permanent.

The Act provided $140 million for FMCSA and the States to make sure these requirements are met. We have grouped the requirements into three categories: (1) hiring and training inspectors, (2) building new and improving existing inspection

[1] The Act directed the OIG to verify eight specific requirements that include (1) filling and training all new inspector positions, (2) training inspectors who will be conducting compliance reviews as safety specialists, (3) not transferring inspectors who will be conducting compliance reviews from elsewhere in the United States, (4) ensuring adequate capacity at each crossing to inspect and place vehicles out of service, (5) implementing a policy to ensure compliance with U.S. hours-of-service rules, (6) ensuring that Mexico's information infrastructure is sufficiently accurate, accessible and integrated with that of U.S. law enforcement, and that telecommunications links are adequate at all crossings and in mobile enforcement units operating adjacent to the border, (7) developing a database that is accessible and enables safety monitoring of carriers and drivers, and (8) establishing measures to ensure monitoring and enforcement of licensing of Mexican carriers.

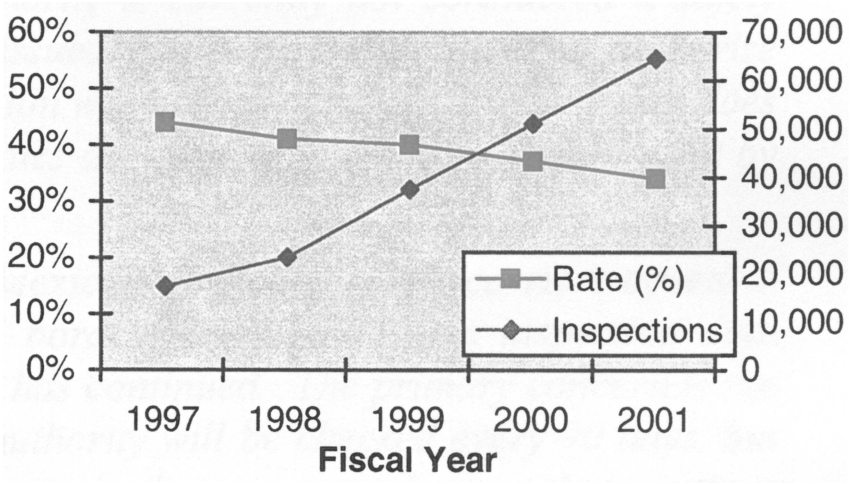
facilities, and (3) developing systems to monitor and ensure the safety of Mexican carriers operating long-haul vehicles in the United States.

Our efforts to verify these requirements included multiple trips to the 25 commercial border crossings—most recently on June 20—to verify the changes in staffing and inspection facilities. Our staff also met with Mexican officials and performed audit work in Mexico on the driver and carrier databases, which included performing real-time testing from the U.S. border crossings and mobile enforcement units operating in the border States.

Two factors will likely determine the ultimate effectiveness of the safeguards that have been put in place. First, the size of the workforce and the facilities needed to provide sufficient coverage of trucks and buses bound for the interior of the United States will be driven by the number of carriers that apply for long-haul operating authority. *The number of applications is picking up, and as of June 25, 2002, FMCSA had received applications from 40 carriers applying for long-haul authority. Twenty-six carriers indicated they intended to operate a combined total of 118 vehicles. Fourteen of the applications were incomplete and did not provide information on the number of vehicles they intend to operate long-haul in the United States. It is likely that over time, long-haul traffic will build, but we have no basis to forecast how quickly or to what extent that will occur.*

Second, there is a direct correlation between the condition of Mexican trucks entering the United States and the level of inspection resources at the border. *Our work has shown that the more likely the chance of inspection, the better the condition of the vehicles. As shown in Figure 1, the out-of-service rates for Mexican trucks seeking to enter the U.S. commercial zones declined from 44 percent in 1997 to 34 percent in 2001 as the number of inspections increased.* Out-of-service rates by crossing are provided in the Attachment.

**Figure 1: Mexican Vehicle Out-of-Service Rates Compared to Number of Inspections Performed**




*Based on our verification work, FMCSA has made substantial progress in meeting the Act's requirements to hire and train inspectors, establish inspection facilities, and develop safety processes and procedures for Mexican long-haul carriers. However, there are a number of actions in process and planned that will require aggressive follow through to meet the Act's requirements. We have reviewed FMCSA's plans for completing these actions, and we believe that with two exceptions, which I will discuss shortly, they are credible and achievable within the next 45 to 60 days.* We have made a series of recommendations to the Secretary that will assist the Department in tracking FMCSA's efforts to implement actions necessary to fully comply with the Act's requirements.

*It is important to recognize that our efforts to date have focused on verifying that FMCSA has staff, facilities, equipment, and procedures in place to implement the basic requirements of the Act. The key once the border opens will be how effectively*

*these resources are used and procedures are implemented. We will be monitoring this carefully during our required follow-on audits.*

*Also, as long-haul traffic materializes, it may be necessary for FMCSA and the States to adjust their inspection resources to meet the volume, location, and condition of that traffic. The Department will need to have a process for reevaluating overall resource requirements and inspection facilities at the U.S.-Mexico border and to make adjustments as necessary to maintain adequate staffing and facilities.*

*Another matter that we want to bring to the attention of the Secretary and Congress is that currently, only two States—Arizona and California—have enacted legislation authorizing their enforcement personnel to take action when they encounter a vehicle operating without authority. Enforcement personnel in all States can place a vehicle out of service for serious safety violations but operating without valid operating authority is currently not considered a safety violation. In March 2000, FMCSA issued a rule requiring States to authorize their enforcement personnel to take action when they encounter a vehicle that does not have valid operating* authority. *States are to comply with this requirement by the end of FY 2003.*

*In 1999, we reported that at least 52 Mexican-domiciled motor carriers operated improperly in 20 States beyond the 4 border States. Roadside inspection data throughout the United States show this has continued. The primary concern is not necessarily long-haul carriers whose authority will be checked every 90 days, but rather carriers only authorized to operate in the commercial zones that continue beyond the zones. With the exception of Arizona and California, State enforcement personnel do not have authority to put them out of service.*

If Congress and the Department want to accelerate the ability of States to enforce operating authority, there are several options for doing so that are described in our report.

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I would like to turn now and briefly discuss some specific areas that our work has focused on.

**Hiring and Training Inspectors**. By July 31, 2002, FMCSA plans to have filled 198 of the 214 new inspector positions assigned to the U.S.-Mexico border. By that date, 171 of those inspector positions should be trained. The Act referred generically to all funded positions as "inspectors," but in practice the 214 Federal positions will be responsible for a full range of activities, including inspecting trucks and drivers at the border, conducting safety exams, and performing compliance reviews and investigations.

- FMCSA has hired 138 of the 144 inspectors it plans to locate at the U.S.-Mexico border to conduct driver and vehicle inspections. This represents 60 inspectors that were at the border prior to the Act's passage and another 78 new inspectors that have been hired since January. FMCSA needs to hire 6 more inspectors and 30 inspectors must be trained. All but 1 of the 30 inspectors will be trained by July 26, 2002. The remaining inspector is scheduled to come on board in August and will complete training in October.
- FMCSA has hired 91 auditors to conduct safety exams which evaluate basic safety management controls to determine if the Mexican carrier is able to operate safely in interstate commerce before being granted provisional authority to operate in the U.S. FMCSA exceeded its hiring goal of 67 auditors to ensure an adequate pool of auditors is available if attrition occurs, either through turnover during the hiring or training process, or if auditors are promoted to the higher-paying investigator or supervisor positions. Fifty auditors are fully trained and 17 more auditors will be trained by July 12 to bring the total to FMCSA's goal of 67 trained auditors.
- FMCSA does not plan to begin hiring safety investigators until July because compliance reviews should not be required until October or November 2002 at the earliest and will not be conducted routinely until at least January 2003. Compliance reviews assess the safety performance of a carrier's operations and its regulatory compliance as a basis for granting permanent operating authority. The Act provides up to 18 months before a compliance review is required in order to allow motor carriers time to develop a history of operations against which FMCSA can measure compliance.

  This differs from the immediate need for inspectors and auditors, who will perform vehicle and driver inspections and safety exams of Mexican long haul carriers. The first training class for investigators ends on September 27, 2002, and 19 investigators should be fully trained to perform compliance reviews by that time. The remaining investigators should be hired and fully trained by No-

vember 22, 2002. *This area is one of the exceptions where FMCSA's plans are not scheduled for completion in the next 60 days.*

A circumstance that could require a compliance review before a history of operations is established would be if a carrier commits one or more of a specific set of safety violations that triggers an immediate compliance review. If this occurs, FMCSA plans to use the one safety investigator currently assigned to the border or another staff member assigned to the border who is also a trained investigator to conduct compliance reviews.

- The Act requires us to verify that inspectors conducting compliance reviews—the investigators—are not transferred from other parts of the United States, leaving those areas vulnerable. We have not seen transfers of any personnel in the hiring FMCSA has done to date, but we will continue to verify how the investigator positions are filled when FMCSA begins to bring investigators onboard in July.

  FMCSA has not yet hired five border supervisors to oversee the activities of investigators, auditors, and inspectors, but will rely on existing crossing supervisors and FMCSA State directors to provide supervisory guidance until all five supervisory positions are filled and trained. FMCSA plans to fill all five supervisory positions by July 15, 2002. However, supervisors will be required to attend the 9-week investigator training if they have not already been trained as investigators. The first investigator class begins July 29, 2002, and ends September 27, 2002. *This area is the second exception where FMCSA's plans are not scheduled for completion in the next 60 days.*
- All four border States and FMCSA have signed agreements to provide inspection coverage during all hours the crossings are open to commercial traffic from Mexico.[2] Schedules have been developed and will be implemented when the border opens.

**Adequacy of Facilities**. By June 30, 2002, facilities should be adequate for inspectors to enforce the Act's requirements at 23 of the 25 commercial border crossings. FMCSA plans to reach agreements to obtain inspection facilities for the remaining two, low-volume traffic crossings by June 30, 2002.

Until earlier this year, FMCSA had not attempted to procure its own facilities or seek improvements to space it had borrowed from the U.S. Customs Service on General Services Administration (GSA)-owned or leased facilities. As a result, FMCSA did not have dedicated space to inspect vehicles and place vehicles out of service.[3] The space FMCSA had been occupying in many cases was not sufficient to support the level and quantity of inspections necessary to satisfy the Act's requirements, and to maintain sufficient coverage of commercial traffic entering the United States to operate in the commercial zones.

For example, in 2001, we found that at: 17 of the 25 crossings, Federal inspectors had space to inspect only 1 or 2 trucks at a time; 12 of the 25 crossings, Federal inspectors had only 1 or 2 spaces to park vehicles placed out of service and often the out-of-service space was the same as the inspection space; and 18 of the 25 crossings, Federal inspectors did not have dedicated telephone lines to access databases, such as those for validating CDLs.

*This situation changed dramatically in 2002*. At 11 crossings, accounting for 51 percent of total traffic, the out-of-service space will have increased by 100 percent or more. For example, at the Pharr, Texas crossing, which had the third highest volume of commercial traffic in 2001, inspectors had access to two inspection spaces and five out-of-service parking spaces. The new facilities will provide FMCSA with 4 inspection spaces and 15 out-of-service parking spaces, which is more than double the original space. The Attachment identifies the status of facilities at each of the commercial crossings along the U.S.-Mexico border.

The most significant improvements are at the high volume crossings where the lack of facilities has hindered the ability of inspectors to monitor and enforce safety regulations. The Act provided FMCSA $2.3 million to procure and improve Federal inspection facilities. FMCSA has entered into agreements with GSA to obtain dedicated inspection and out-of-service space and to make necessary improvements. Improvements were needed at 19 of the 25 commercial border crossings and ongoing

[2] Except at Sasabe, a low-volume crossing where, according to FMCSA, an agreement exists between the U.S. Customs Service and the State of Arizona to detain long-haul vehicles until an inspector can be called and the vehicle inspected.

[3] Trucks are removed from service because of serious safety violations, including inoperative and defective brakes, defective frames and steering systems, and bad tires. Drivers are placed out of service for reasons that include: not having valid CDLs, not complying with hours-of-service rules, or not having logbooks to document the number of hours they were on duty.

improvements have estimated completion dates by June 30, 2002. Existing facilities at four of the remaining six crossings are sufficiently adequate without improvements to enforce the Act's requirements, and the improvements needed at two low-volume California crossings—Tecate and Andrade—have not yet been determined. However, negotiations are underway to obtain inspection facilities at Tecate and Andrade, and FMCSA anticipates finalizing the plans by June 30, 2002.

The Act provided the four southern border States with a total of $66 million for the construction of new or improvement of existing State border inspection facilities. The funds have been distributed as follows: California—$8.9 million, Arizona—$2.1 million, New Mexico—$2.2 million, and Texas—$52.8 million. The State facilities, when complete, will augment the Federal inspection facilities in the short term and may ultimately replace them.

**Enforcing U.S. Safety Rules and Establishing Information System Capability**. The focus of the verification requirements Congress established in this area were intended to ensure that inspectors would be prepared to enforce U.S. safety rules, such as hours-of-service, once the border opens to Mexican long haul carriers. Also, the verification requirements were to ensure that inspectors have access to accurate, timely, and current driver, vehicle, and carrier information when they conduct safety inspections of Mexican long-haul carriers. FMCSA must also monitor the safety record of Mexican drivers and carriers operating in the United States in order to take appropriate action, such as revoking a Mexican driver's privileges or a Mexican carrier's authority to operate in the United States, when they violate U.S. safety rules.

- *Hours-of-Service Policy.* FMCSA issued a policy on April 3, 2002, to ensure Mexican carriers comply with U.S. hours-of-service rules. We cannot verify that the hours-of-service policy is implemented until Mexican long-haul carriers are granted authority to operate beyond the commercial zones. However, based on our observations of current practices for Mexican carriers operating in the commercial zones, we believe that inspectors will be prepared to implement the hours-of-service policy for Mexican long-haul carriers.
- *Access to Accurate Data.* We determined that Mexico's databases are sufficiently accurate to provide inspectors with information to verify the status of a Mexican CDL and the validity of a Mexican vehicle's license plates. During our April 2002 visit to Mexico's Department of Transportation, we validated the accuracy of the information entered into the CDL and vehicle registration databases by reviewing and tracing automated records for CDLs and permits to source documents.

  In addition to Mexico's databases on drivers and vehicles, inspectors need to access the U.S. Licensing and Insurance database to verify that a Mexican carrier has authority to operate in the United States and has valid insurance. To evaluate the accessibility of data to inspectors, we conducted tests at 25 border crossings to determine if they could access the Mexican databases to electronically verify CDLs and license plates and the U.S. database to electronically verify operating authority and insurance. We conducted the same tests with 17 mobile enforcement units operating adjacent to the border crossings in the four States.

  We found that inspectors at 6 of the 25 commercial border crossings could not access Mexican and U.S. databases to verify information on Mexican carriers. At one of the six crossings the problem was that the inspector did not yet have a password to access the database. At 3 crossings, telephone lines or telecommunication links were not yet installed. FMCSA plans to remedy these problems by June 30, 2002. At the remaining two crossings, inspectors were not yet onboard and inspection facilities had not been secured. However, the issue will be addressed within the next 45 to 60 days when improvements will be made to the inspection facilities.

  With the mobile enforcement units, we found that all could access information in the Mexican database on CDLs. However, only 1 of the 17 could access insurance and operating authority data, and none could access vehicle registration information (license tags). FMCSA has developed a plan to provide mobile enforcement units access to this information by June 30, 2002.
- *Mexican Driver and Carrier Monitoring Systems.* FMCSA will be using the following two separate systems to monitor the safety records of Mexican *drivers* and *carriers*:

  ***Drivers.*** FMCSA has developed and implemented an automated system to monitor the performance of Mexican commercial *drivers* operating in the United States. The system provides FMCSA the capability to track, monitor and withdraw U.S. driving privileges of Mexican commercial drivers convicted of moving

traffic violations in the United States. If U.S. driving privileges are withdrawn, a disqualified status will be immediately reported to U.S. law enforcement officials when they check the license status of the driver.

***Carriers.*** FMCSA developed an automated system and plans to have it operational by July 1, 2002 to extract safety violation data on Mexican *carriers* from its Motor Carrier Management Information System. To complete the system, FMCSA is developing an automated process for (1) identifying carriers requiring a compliance review or letter of corrective action; (2) generating corrective action letters to send to the carrier; (3) notifying the appropriate field office that a compliance review or corrective action is required; and (4) creating a carrier history of violations and corrective actions taken.

- *Enforcing Operating Authority*. In March 2000, FMCSA issued a rule requiring States to enforce operating authority requirements as a participating qualification under the Motor Carrier Safety Assistance Program. The States have until the end of FY 2003 to enact legislation.

  Currently, only two States—Arizona and California—have enacted legislation authorizing their enforcement personnel to take action when they encounter a vehicle operating without authority. The other States' enforcement personnel do not enforce operating authority. However, enforcement personnel in all States are authorized to remove drivers and commercial vehicles from service for serious safety violations, such as operating without a valid commercial driver's license or operating a vehicle with defective brakes. Operating in the United States without valid operating authority is currently not considered a safety violation and hence with the exception of Arizona and California, State inspectors cannot enforce the violation.

  In 1999, we reported that at least 52 Mexican-domiciled motor carriers operated improperly in 20 States beyond the 4 border States. Roadside inspection data throughout the United States show this has continued. To provide a mechanism to enforce operating authority in the absence of State laws, FMCSA issued a policy memorandum in November 2001, encouraging the States to contact FMCSA if State inspectors encountered a commercial vehicle operating without authority.

  A principal concern in this area is not necessarily the long-haul carriers that will have authority to operate beyond the commercial zones and throughout the United States. These carriers' vehicles will be subjected to an inspection every 90 days, which will include verification of operating authority when performed by a U.S. inspector. Rather, the concern is that carriers without authority to operate within the commercial zones or those that have authority only to operate within the zones will continue to operate *beyond* the zones. In these latter cases, the Act does not require periodic inspections and, other than California and Arizona, States do not have authority to put them out of service.

  If Congress and the Department want to accelerate the ability of the States to enforce operating authority, there may be several ways to accomplish this. One option might be a Federal law conditioning States' receipt of Federal funding on the enactment of State laws to enforce operating authority. Another option is the Department could include operating authority violations among the safety criteria for placing vehicles out of service. States are already authorized to place vehicles out of service for safety violations, but operating authority is currently not considered a safety violation.

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*Madam Chairman, Mr. Chairman; this concludes my statement. I would be pleased to answer any questions.*

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**Attachment**

The following figure identifies the status of facilities at each crossing between June 17 and June 20, 2002. A "green light" indicates that new or existing space and/or facilities are consistent with identified needs. A "yellow/green light" indicates work is progressing steadily on improving or securing adequate space and facilities. We expect these will become "green lights" by June 30 when FMCSA projects that all improvements will be complete. A "yellow light" indicates that improvements have not yet been started. These facilities are not likely to be complete by June 30, but are likely to be complete within 60 days.

**Status of Inspection Facilities and Vehicle Out-of-Service Rates by Commercial Crossing Between June 17 and June 20, 2002**

| BORDER CROSSING | FY01 Truck Traffic | Inspection Space | Out-of-Service Space | Office Space | Telecom Links | FY01 Vehicle Out-of-Service Rate (%) |
|---|---|---|---|---|---|---|
| Laredo-WTB, TX | 1,072,445 | ● | ◔ | ◔ | ◔ | 44 |
| Otay Mesa, CA | 700,453 | ● | ● | ● | ● | 26 |
| Pharr, TX | 367,991 | ● | ● | ● | ● | 31 |
| Laredo-Columbia, TX | 346,720 | ◔ | ● | ● | ● | 38 |
| El Paso-BOTA, TX | 332,439 | ● | ● | ● | ● | 32 |
| El Paso-Ysleta, TX | 323,818 | ◔ | ● | ● | ● | 33 |
| Calexico, CA | 259,174 | ● | ● | ◔ | ◔ | 33 |
| Nogales, AZ | 251,474 | ● | ● | ● | ● | 36 |
| Veterans Bridge, TX | 199,135 | ◔ | ● | ● | ● | 35 |
| Eagle Pass, TX | 100,983 | ● | ● | ● | ● | 21 |
| Tecate, CA | 62,243 | ○ | ○ | ○ | ○ | * |
| Del Rio, TX | 59,286 | ● | ● | ● | ● | 23 |
| Los Indios, TX | 56,096 | ● | ● | ● | ● | 35 |
| San Luis, AZ | 39,908 | ● | ◔ | ● | ● | 24 |
| Douglas, AZ | 34,054 | ● | ◔ | ● | ● | 40 |
| Santa Teresa, NM | 30,612 | ● | ● | ● | ◔ | 24 |
| Rio Grande City, TX | 26,391 | ● | ● | ● | ● | 36 |
| Progreso, TX | 16,649 | ● | ● | ● | ● | 42 |
| Roma, TX | 11,806 | ● | ● | ● | ● | 48 |
| Naco, AZ | 9,976 | ● | ● | ● | ● | 29 |
| Presidio, TX | 7,562 | ● | ◔ | ◔ | ◔ | * |
| Lukeville, AZ | 4,271 | ● | ● | ● | ◔ | * |
| Columbus, NM | 4,239 | ● | ● | ● | ◔ | 29 |
| Sasabe, AZ | 2,215 | ● | ● | ● | ◔ | * |
| Andrade, CA | 1,727 | ○ | ○ | ○ | ○ | * |

* According to FMCSA's Motor Carrier Management Information System, records of inspections performed did not specify whether the inspections were done at border crossings or within commercial zones adjacent to crossings. Therefore, a rate for the crossing could not be determined.

Senator MURRAY. Well, thank you very much to our witnesses, and let me just ask a few questions because we have a vote on. Senator Breaux will be back in a few minutes, and I know Senator McCain has some questions as well, but let me just begin by asking you, Mr. Secretary, the Inspector General's Report on Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border† was issued 2 days ago, and in that report the IG made several observations on safety issues that are associated with opening the border.

† The information referred to has been retained in the Subcommittee's files.

The next step is for you to issue a certification to the President based on the findings of that IG report that opening the border does not pose an unacceptable safety risk to the American public. When do you envision making this certification?

Secretary MINETA. Well, first of all, having just received the report, I will not rush into this until I am thoroughly familiar with the report. Mr. Clapp and I have already talked about that, but I will not recommend to the President nor certify until those issues of safety are resolved.

Senator MURRAY. And once that certification has taken place, how long before you will officially open the border to allow Mexican long-haul trucks in?

Secretary MINETA. I would assume that once we do the certification, that it will probably will be about, let us say, a month? Will it take that long?

Senator MURRAY. Mr. Clapp, I cannot hear.

Mr. CLAPP. I am sorry—thank you. The President, of course, also has to take action to lift the moratorium after the certification is made.

Senator MURRAY. So the process is, the certification is by your office, the President lifts the moratorium, and then it takes some time to implement. How much time is that?

Secretary MINETA. I think the crossing would be open as soon as he lifts that moratorium. How long would it take the Administration to——

Senator MURRAY. Do you have any estimate of time, how long it would take you to do the certification?

Secretary MINETA. Given the number of items that I saw in a cursory glance at the report, I would think that I would be able to do that in about a month.

Senator MURRAY. All right. The IG's audit found that 6 of the 25 commercial border crossings could not access Mexican and U.S. data bases to verify Mexican drivers licenses, license plates, and authority to operate in the United States or insurance coverage, and only 1 of 17 mobile enforcement units operating adjacent to the border could access insurance and operating authority data, and none of them could access vehicle registration information.

Mr. Secretary, can you tell this Committee what's being done to ensure that all enforcement personnel, both stationed at the border and in mobile enforcement units, will have access to the necessary information before you open the border?

Secretary MINETA. First of all, we are trying to build this system based on the use of an 800 number for accessing the driver license and the insurance requirement provisions. Second, eventually we were going to move to PDAs, and as I recall the third one was the Internet, access through the Internet, in terms of trying to, have the information available for immediate access.

Senator MURRAY. Mr. Mead, are you confident that all enforcement units are going to have the necessary access to information before the border opens?

Mr. MEAD. In the case of the mobile enforcement units that you mentioned and the crossings you mentioned, FMCSA has plans that we feel are credible, to have access in place in July.

Senator MURRAY. In July.

Mr. MEAD. In July. When we did our review, access was not in place and that is why it was noted in our report. The basic problem at a number of those crossings was they did not have telecommunication lines and facilities. It is not rocket science to put them in, and that is why we think it is fairly credible to say by July.

Senator MURRAY. And there is an effort to do that by July?

Mr. MEAD. Yes, there is.

Senator MURRAY. Some of the transportation safety groups have expressed concerns that there is no effective system and no attempt to build a system for verifying that Mexico-domiciled carriers are validly and adequately insured by U.S. licensed insurers. What method of verification is the Department using, Mr. Secretary, to ensure that Mexican carriers have the proper insurance before they are allowed to drive on U.S. highways or outside their commercial zone?

Secretary MINETA. Well, again we will be making that as a check, because the law does require a U.S. insurer of a Mexican carrier, so in that instance we will be verifying with the U.S. insurer.

Senator MURRAY. Mr. Mead, do you think that DOT's plans are adequate in the area of insurance?

Mr. MEAD. I do in the border States. I think they have a good command of this in the border States, when you are talking about the operating authority and also whether they have insurance. In the other States, for right now you are going to have to rely on them calling an 800 number, and I would like to see in the longer term a quicker way of doing that.

Senator MURRAY. I am going to have to go vote. I am going to turn it over to you, Senator Specter, to go ahead and ask your questions, and I know Senator Breaux is going to return in just a few minutes, and I will return as well, but I assume someone else will be back by the time you conclude.

**STATEMENT OF HON. ARLEN SPECTER, U.S. SENATOR FROM PENNSYLVANIA**

Senator SPECTER (presiding). Mr. Secretary.

Secretary MINETA. Senator.

Senator SPECTER. The issue of the border is obviously one of great importance, and I know that is the focus of this hearing, but our Transportation Subcommittee out of Appropriations is very much concerned about a number of other matters, and I would say the number 1 item on the agenda is Amtrak, which I would like to discuss with you briefly this morning, and I thank you for what you and the Administration have been doing in an effort to keep Amtrak running.

This has been a perennial battle since I was elected in 1980, with every year the issue reaching a very difficult situation, but the crisis now is more pronounced than ever, and I am pleased to see the reports in the media today that you have worked out an arrangement to keep Amtrak running at least in the short run on the problem involving the $205 million.

I would be interested to know what role you are expecting the Appropriations Committee to play, because we have a supplemental bill up, and this is an opportune time for us to weigh in,

and Senator Hollings, Chairman of this full Committee, is on appropriations, as am I, as are the others, and I would be interested to know how you see that working out to provide the $205 million.

Secretary MINETA. Well, what I had indicated earlier was that we have worked out a temporary program to get us through July, and that after Congress returns after the July 4 recess we would then sit down with you folks to make sure that we have adequate funding to go through the fiscal year, and so——

Senator SPECTER. What will you be looking for Congress to do specifically, if you know at this point?

Secretary MINETA. Well, what we would like to do—as I recall, the figures from yesterday was to look for a total of $270 million to carry us through the fiscal year.

Senator SPECTER. $270 million.

Secretary MINETA. We already have, as I said, $100 million that we——

Senator SPECTER. Why $270, instead of the figure which has been used of $205 million?

Secretary MINETA. That was the request of the Amtrak board at the time, and in going through all of the figures we think that that would be roughly the area in which we would be able to sustain its operations, but again that is something I would like to come back and talk to the Senators and the House Members about.

Senator SPECTER. Well, I am glad to have those assurances, and I believe it is fair to say that there will be overwhelming support on the Appropriations Committee, and I think in the Senate, and ultimately I believe in the House, too.

I am concerned as to what is going to happen in the long run. I sat down with the Amtrak officials, Mr. Gunn and Mr. Smith, and inquired as to what their long-range plans are. It seems to me we really need to get figures from them as to what it is going to take to keep Amtrak running. If it is going to be a permanent subsidy that they are going to need, Congress and the Administration ought to be told that so we can make an evaluation, and when they talk about a capital program, they are very vague as to what they are doing. Mr. Gunn has been there for only a short time but it seems to me we need something very, very specific as to what Amtrak's needs are so that we can make an evaluation.

We had the proposal, as you know, for $12 billion in bonds last year which did not go through, but the time has come when we really have to have an overall plan to know what is going to happen. This is the first time since I have been in the Congress in 22 years, in the Senate in 22 years that there has been a threat, an immediate threat of a shutdown.

There have always been problems, but this runs "The Perils of Pauline" right to the edge of the cliff, and I can tell you, as a frequent rider of Amtrak, and knowing people across the country who are concerned about it, that—well, it is no way to run a railroad, to use a very popular expression, which has special applicability here.

Secretary MINETA. Well, I think in terms of hammering out this agreement, the kinds of conditions, or the reform issues that you referred to are the kinds of things that we put in the agreement. I think there is a recognition by Mr. Gunn as well as the board of

directors and the Administration in terms of the kinds of conditions for reform, and that we cannot continue from crisis to crisis. We do have to start instituting these kinds of changes, and I am confident that with the conditions we have in this agreement, and with the work of Mr. Gunn as the executive of Amtrak, that it will be done.

Senator SPECTER. Mr. Secretary, on the outline of the speech you made a week ago Thursday on having States take over and having privatization to some extent, or public bidding, how would that work if, say, Pennsylvania agreed but Ohio did not? You cannot stop the train at the border. What is your thought on that?

Secretary MINETA. Well, the other alternative I did say was that to the extent that you have a State that does not contribute, you can always keep the doors of the train closed as it goes through the State.

Senator SPECTER. You are not serious about that, are you?

Secretary MINETA. And of course, my boss, who is a former Governor, raised his eyebrows.

Senator SPECTER. Both of them?

Secretary MINETA. Both of them.

[Laughter.]

Senator SPECTER. Well, we need to have more specification of that. The United States needs a rail system. Every industrialized country has one. You know all the generalizations about subsidies for airlines and subsidies for highways and the rest of it, but we have to figure out where we are going here, because we have a broad vision we have to move ahead on, on maglev, something you and I have discussed many times, and that is a very active item on the agenda for the Department of Transportation with the competition now between the 47 miles from Greensburg to the Pittsburgh International Airport with Baltimore to Washington, and a need for maglev from Orange County to Las Vegas, and really a vision for the future.

If this country was as timid in the 19th Century as some are today, and I do not include you in it, because I know you have a vision for the future, we never would have built the transcontinental railroad, but I think we really have to get down to some hard analyses here and come up with a plan.

Mr. Chairman, if I might ask just a couple of parochial questions before the balance of the Committee members return here, Mr. Mineta, when we get a chance to talk to you on the record, it is, as you remember from your congressional days, an opportunity, and I want to talk about Lancaster, Pennsylvania, which is a very important city to me and to Pennsylvania. We recently had an allocation by the Department of Transportation for $20 million in a small community air service development pilot program, which did not comprehend Lancaster. I might say that it does carry Reading, which is just a little bit up the road, and sort of a twin city to Lancaster. You can imagine the concerns I am hearing as to why not Lancaster. Lancaster had been trying to get a subsidy on essential air services, which was declined, and I know you will recall my conversation with you on a 70-mile rule.

It is possible to drive from Lancaster to the Philadelphia International Airport in 66 miles if you go on route 30, and are willing

to stay behind big trucks all the way on a two-lane highway, but if you take the Interstate, Route 222, the Pennsylvania Turnpike, and the Schuylkill Expressway, it is a good bit more than 70 miles, but it is much, much faster. And is there any relief in sight for Lancaster either by way of perhaps being included in the community air service pilot program, or having a reevaluation of that 70-mile rule, which just does not fit the essential air services subsidy?

Secretary MINETA. Well, as we have discussed, 70 miles has been the delimiting, or the limiting factor on Lancaster. On the other program that Congress passed for the $20 million program, those grants were issued, or announced last week as I recall, and there were a total of 40 cities that applied, but I do not believe, as I recall the list, that Lancaster applied under that program.

Senator SPECTER. No, Lancaster did apply, Mr. Secretary.

Secretary MINETA. Did it?

Senator SPECTER. Yes.

Secretary MINETA. Oh, well then, but then it did not successfully compete in that program.

Senator SPECTER. Is it possible to take another look at that?

Secretary MINETA. As an EAS city but not under the other program, because those allocations have been announced for the $19 million.

Senator SPECTER. But you could take another look at the ESA issue?

Secretary MINETA. Well, based on that 70-mile limitation, but one of the problems with that 70-mile limitation is that the—and I know that I have asked, after our discussion I asked the FAA, our aviation office to—because there is so much controversy about the mileage requirement in terms of shortest route, fastest route, and to come to some rationale on it, but let me have them take a look at it again, but I know that for the round right now, I do not believe it would qualify.

Senator SPECTER. But you will have them take another look?

Secretary MINETA. I will have them take another look.

Senator SPECTER. OK. Thank you very much, Mr. Secretary.

Thank you, Mr. Chairman.

Senator BREAUX. Thank you very much, Senator.

Senator HUTCHISON.

**STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you very much, Mr. President—I mean, Mr. Chairman.

Senator BREAUX. I accept.

Senator HUTCHISON. Mr. Secretary, I thought I had walked into an Amtrak hearing earlier, before we went to the vote. I would like to just ask you one question about that, and then of course as a border Senator I certainly have concerns about the issue that is the subject of this hearing, but I wanted to ask you if the Administration reform plan will have a goal of a stable national system rather than a separate northeast corridor and rest of the country.

Secretary MINETA. Well, our objective is to have a viable intercity passenger rail service. Now, the question is, does that mean that all of the dots are connected, and I think that what we have to do

is to try to rationalize that system in terms of profitability of routes, and in terms of the nature of the participation by local and State governments.

There are a number of factors that we are looking at in trying to build a viable intercity passenger rail service. What has been happening in the past is that it is like taking margarine and spreading it on a piece of bread without any thought to whether the routes are making money, and even as Mr. Gunn talks about, dealing with not only cost controls, but also revenue sources.

I think the whole issue of trying to see where are the ways to have routes, and I do not know financially whether these are the ones, but whether it's, let's say, a Chicago to the Twin Cities, or Chicago to Detroit, Chicago down into the Texas area in terms of the routes, or what about the Chicago to L.A. route across the country?

Those things all have to be looked at, and I do not think there is a prejudgment in terms of the elimination of routes, but I think they have to be looked at in terms of whether or not they are financially viable, and do we get State and local participation in those routes.

Senator HUTCHISON. Well, Mr. Secretary, I would just hope that, rather than looking at revenue from the passenger side, and I think we need to look at revenue sources on the freight side. Package service has been very helpful to Amtrak, but they have been limited because some of the cargo rail companies have resisted going beyond packages. And I think that that should be looked at as well. But I would just like to see a national rail system commitment that puts in place a structure that makes sense. And then once you have that, something like a skeleton across the top of the country, across the bottom of the country, east to west, up the two East and West Coasts, and then perhaps something down the middle, and maybe something else in between, but a basic system to which we could commit that would then allow for real stability in service.

It is hard to judge a route when it is 4 to 6 to 12 hours late routinely. It is hard to judge the kind of revenue that you are getting on a line that has been starved for funding, because in fact we keep talking about these great subsidies that Congress has given. Congress has given about $500 million a year. As Mr. Mead has pointed out, that is about half of what was authorized in the legislation that was meant to try to bring Amtrak up to speed, and what has been starved are the long distance routes.

So yes, they are least revenue-producing, but I would hope, as a member of the Amtrak board, that you would commit to a national system, where we do not announce that long-haul routes are going to be closed, and the Northeast Corridor is going to stay open so that people start canceling reservations because they cannot be sure that Amtrak is going to run, and if it does run, that it is not going to be within 10 hours of being on time. And let us make the commitment, and let us fund it at a reasonable level, let us get the stability, and then I think you will see the synergism of States coming in.

And I do not disagree with the Administration at all that States should step up to the plate. They absolutely should. It should not

be just a Federal subsidy, it should be a State-Federal match just like so many of our transportation projects are. That is totally valid, but I do think we need the national commitment to a national rail system that is part of our homeland security and our transportation intermodal network that includes air and highways and rail, and I would hope that would be the direction that you are going.

I would like to just switch gears and talk about the situation with Mexican trucks. I had asked that this hearing include people from the border cities who are on the front line to determine their view of where we are, but the Chairman of the Committee only wanted to have witnesses from the Administration.

I have to say that I think there are some issues such as El Paso and Laredo, both would like to have their border crossings away from town, and Mr. Mead, my colleague, Congressman Bonilla, has asked you for a study to determine if this can be accomplished in Laredo, and if it is, can it be accomplished and also have the number of inspections that we are going to need in Laredo, which handles the highest number of commercial truck crossings I think of any crossing on the border. What is the status of that request to you?

Secretary MINETA. Well, we had a request, as I recall. I think you had supported the request of the Mayor of Laredo. There are two entry ports at Laredo, and the question was, instead of doing an inspection at the border can it be done further up the road? As I recall, further up the road was about 28 miles. The problem there is that it puts it beyond the commercial zone, as I recall, so that creates the problem for us in terms of having the road that would then go up to this inspection facility further up from Laredo.

Senator HUTCHISON. What would be within the range that you would see—I mean, the commercial zone is there now because that is the restriction, but when that is—when the restrictions are removed, what would you consider, then, a reasonable number of miles from the center city? Because of course these cities, both El Paso and Laredo, are trying to get the air pollution cleared up, and the long lines that are waiting are not helping that situation at all. So what number of miles would you consider feasible?

Mr. CLAPP. Senator, if I may assist in that regard, without respect to where the State does locate its inspection station or stations, we still have an affirmative requirement to see that the inspections are conducted at the border. We fully support what we hope will be fruitful efforts between TexDOT and the city to work out a suitable location that will satisfy that requirement.

In the meantime, and perhaps for the long term, the reality is that the inspections must be done, under law, at the border. Currently Federal agents, our people, are doing those inspections. Of course, we have very substantially augmented our staff to do just that, as well as augmented the space on the customs compound or adjacent to the customs compound to accomplish that.

Senator HUTCHISON. We are talking about the border.

Mr. CLAPP. Yes, ma'am.

Senator HUTCHISON. We are not questioning that the inspections would be done on the border. The question is, how far would you consider from the main city crossing a reasonable number of miles

up the border? I mean, if you are going to inspect all the trucks that do not have the certification stickers, why does it matter if it is 28, or 20, or 14, or 5 miles up, and you will have a road that will go back to the main corridor?

Mr. CLAPP. Senator, I think—and the Inspector General will probably have a few thoughts or comments on this, but I think it is reasonable to assume that you would have to look at that on a case-specific basis, particularly with regard to what are the opportunities to evade the inspection requirement. I do not think anybody involved wants to be so hidebound as not to try to work out a reasonable solution, but it would have to be an effective solution.

Senator HUTCHISON. Mr. Mead?

Mr. MEAD. The Congressman did write to us, and you asked as part of your question, what our response was. The priority we assigned to that request comes second to the statutory requirement of the report that we are testifying on today. So we have not completed the request, but I would say that, first, the law that Congress enacted refers in several places to inspections that must be done of long-haul trucks at the border crossings. The exact location and how far inland you can go may be a matter more within the province of the Congress than it is a matter of administrative discretion.

Second, I do not know why you would spend money to create a facility 28 miles in, or 20 miles in, or 30 miles in, until you have a good handle on the amount of long-haul traffic.

In our statement we pointed out that to date the Department has received 40 applications, representing a total of 118 trucks applying for long-haul authority. I cannot forecast what the future will hold. I know the State of Texas and the city of Laredo are having a dispute about this, and I guess ultimately they would have a great deal to say about it, but before I would want to spend the money, I would want to know, is there going to be enough traffic to justify consideration of that particular question?

Senator HUTCHISON. Let me ask you another question, because Laredo handles about one-third of the commercial crossings, and the bill says that permanent scales and weigh-in-motion machines have to be located at five of the 10 busiest crossings. The Department has complied with this, but Laredo is not one of those that is receiving the permanent scales and weigh motion machines.

They were put in El Paso, which is also one of our busiest ports, and certainly across from Juarez, which is the third or fourth largest city in Mexico. I think that is warranted, but why was Laredo not considered, with its number of commercial crossings, for the permanent scales and weigh——

Secretary MINETA. The static scales were part of the——

Mr. MEAD. Both Laredo crossings will have weigh-in-motion scales by the end of the year. Under the law, 5 of the 10 highest volume crossings must have weigh-in-motion scales before FMCSA begins processing applications for long-haul authority and the remaining 5 by December 18, 2002. The Columbia Bridge in Laredo has a weigh-in-motion scale now and Laredo's World Trade Bridge should have one by December.

Senator HUTCHISON. Mr. Secretary, will you verify that Laredo will have one by the end of the year, will have those facilities?

Secretary MINETA. They will.

Senator HUTCHISON. OK. Thank you.

Secretary MINETA. The other point I wanted to make was that we have another responsibility—besides a congressional mandate that says that the inspection has to be done at the border—the whole issue of evasion of inspections. I think that is the only other question that we might have about locating an inspection facility away from the border.

Senator HUTCHISON. Well, I do not think, practically speaking, it should make that much difference. If the corridor—I mean, 28 miles would be certainly monitored, and there would be a lot of security that would be closely watching, and certainly there would not be any egress from that 28 miles from the border to the station, so I do not think as a practical matter it should be a problem.

I know the Department of Transportation in Texas is in disagreement, but I do think the local people should be considered, mainly because of the environmental problems, but also the traffic congestion and the infrastructure they are going to have to put in city streets and bypasses, and they have already made a huge financial commitment there. I have been to the station where they are inspecting now, and it is a fine facility, it really is, but it is not nearly enough to handle what is going to be necessary when you open the border.

Secretary MINETA. Well, we will continue to work with you, and the Mayor of Laredo and TexDOT on that.

Senator HUTCHISON. Thank you, Mr. Secretary. I will just end by saying that the safety issue is very important, not only for the people of Texas who will have the first few hundred miles with these trucks and would want to have the requirements met, but going into the rest of the country we must assure that all the trucks meet the safety standards that have been set forth, and I hope that you will open as soon as is feasible, but not in any way lessening the safety requirements from the standards of the law.

Thank you.

Senator MURRAY. Thank you, Senator Hutchison.

Mr. Secretary, I have a number more questions about Mexican trucks, and after Senator Fitzgerald asks his questions I want to go back and ask a few questions about Amtrak, but before I go back to my border questions I do want to ask you about another topic while I have you here, because as Chair of the Transportation Appropriations Subcommittee we have jurisdiction over the FAA as well, and I am concerned about the likely bankruptcy of WorldCom, and whether it will have serious ramifications for the FAA's air traffic control system.

They are currently holding a contract providing the telecommunications links between all of our air traffic control facilities, and I would like to ask both you, Mr. Secretary, and you, Mr. Mead, if you would comment on what vulnerabilities the FAA may face in the event of a sudden WorldCom bankruptcy, and Mr. Secretary, could you comment first?

Secretary MINETA. Madam Chairwoman, that just happened last night, and I have asked Administrator Garvey to brief me on all of that issue, so I cannot give you a response on the impact of

WorldCom. We know it will have an impact, without a doubt, but she said she would brief me today on that.

Senator MURRAY. Mr. Mead, are you prepared to answer?

Mr. MEAD. Yes. We think the Department has taken the right steps here, that obviously WorldCom, as you point out, is the incumbent on handling the telecommunications between the ATC facilities. They actually own, I understand, the switching machinery that covers the interchanges of communications, and so obviously we want to make sure that we have full assurances that the short-term implications are under control and there will be no interruption.

Second, there is a pending contract award for the provision of telecommunications services to the Federal Aviation Administration. It is a multibillion contract, I understand, and WorldCom was one of the bidders on that contract, so exactly where we stand on the new contract obviously needs to be reassessed as well, and we will keep you apprised, but right now I know the Secretary, the Deputy Secretary, and Administrator Garvey, are all focused on it.

Senator MURRAY. Well, I am delighted to hear that you are focused on it, and we would like both of you to stay in close touch with us as we see what develops with that.

Secretary MINETA. I will do that.

Senator MURRAY. OK. I will return to issues regarding the border before I turn it over to Senator Fitzgerald.

Let me go back to you, Mr. Secretary. So far, the Department has received relatively few applications from Mexican motor carriers seeking long-haul operating authority. Can you tell us about where these first Mexican trucks to enter the U.S. are likely to travel and what type of cargo they might be carrying?

Secretary MINETA. I would assume that the principal four States would be California, Arizona, New Mexico, and Texas, and most of those would probably be agricultural products, but let me see if Mr. Clapp has anything further on that.

I think most of the applications have been for the commercial zone rather than any long distance, and even on the long distance I think there is really only one. Even though we have had 40 applications, I believe there is only one that is complete, and that is under review.

Senator MURRAY. For outside the commercial area?

Secretary MINETA. Yes, ma'am.

Senator MURRAY. Mr. Clapp.

Mr. CLAPP. If I can add to it, thank you, Senator Murray, there is a fairly good distribution of applications of the long-haul carriers at this point. We expect the Port of Long Beach probably would be a significant origin and destination point, as well as Tucson and San Antonio. But as I say, there is a fairly good distribution across the border from California to Texas at this point.

It is typical for carriers to apply for the world in terms of where they may be able to go, which, of course, does not really speak to where they actually will go. So it is really going to be more of a function of where the traffic and trade flows are, as opposed to the way they apply.

Senator MURRAY. The IG's report says that 48 States lack any laws to put vehicles out of service or penalize large trucks that are

caught operating outside of their Federal operating authority. The IG suggested that this problem could be solved if the Department included operating authority violations among the safety criteria for placing vehicles out of service. Mr. Secretary, do you intend to add operating authority violations to that safety criteria?

Secretary MINETA. Yes, and the other way I think that we can deal with that is to have a congressional mandate on that issue. Is that another way that we can deal with that?

Mr. CLAPP. There are three ways. As I think the Inspector General testified, we do have a regulation that requires, by 2004, the States to be able to do this or they would lose MCSAP money. That is fairly significant.

Senator MURRAY. Do you intend to pursue the regulating authority?

Mr. CLAPP. Yes. However, the two other options that you just mentioned both have promise. The suggestion by the Inspector General I think is very intriguing, and we intend to pursue that to see if we can do it. That would perhaps be the easiest fix that we can do.

Mr. MEAD. We like the approach of doing something in a regulatory way. If the opening of the border is going to occur in the near term, and they continue with the progress in meeting all their plans, the milestones, we are very shortly going to have a truck seeking to go into the interior of the United States.

We are not so concerned about the long-haul trucks that tell the truth, that they are going to be long-haul and have the inspection sticker displayed on their windshield. We are more concerned about the trucks that come across that are by law confined to the commercial zones, who just drive on. We think it is important that the State law enforcement officers have the authority to say, you are stopping in your tracks. That is going to cause economic pain and that will be a hindrance to that type of behavior. But if you go with the approach of having every State enact a law, we could be back here 3 or 4 years from now testifying that there are still some holes.

Senator MURRAY. Right, and as of right now there are only 2 States with those laws, so we definitely could have holes, and we could have different regulations in different States, so you are suggesting, Mr. Mead, that the regulating authority is probably the best way to go at this time?

Mr. MEAD. Yes, and it would work with the Commercial Vehicle Safety Alliance, with the out-of-service rules on safety violations.

Senator MURRAY. Mr. Mineta, I understand you intend to pursue that, is that correct?

Secretary MINETA. That is correct.

Mr. CLAPP. That is correct. Senator, perhaps I should mention that as of today, in the meantime, all the States have received a policy from us that if they should stop a truck that is operating beyond its authority and they do not have their own authority to put it out of service, their instructions are to contact our office and one of two things will happen. We will come and put the truck out of service because we do have that authority, and we have hundreds of agents in the field, and that is a plausible way to go.

If for some reason that is not possible, if they document that incident, then we will take enforcement action against the carrier, the first offense of which will be at least a $10,000 fine, so it is not something to be taken lightly.

Senator MURRAY. Secretary Mineta, you have said that you intend to ensure that new Federal inspectors at the border are largely bilingual. I have to say that begs the question as to what will happen when Mexican drivers encounter Federal inspectors who are not bilingual away from the border. How are you going to ensure English proficiency on the part of Mexican drivers entering the U.S.?

Secretary MINETA. That is part of the requirements that we have been talking about on the whole issue of drivers and their ability in terms of safety, adherence to traffic signs, etc. I know that in terms of our own employees who are going into Mexico to do the compliance and safety reviews, they will have with them bilingual material for the carriers so they will be able to understand our regulations and rules. But in terms of the drivers, we intend to make sure that they are knowledgeable about reading signs and observing the traffic laws of the United States.

Senator MURRAY. Well, Mr. Mead, you issued a report on improving the testing and licensing of commercial drivers, and in that report you identified English language proficiency as a weakness of our own CDL program. What are your concerns about Mexican drivers as well who lack English proficiency, and what do you think we can do to address those concerns?

Mr. MEAD. Well, I am not a student of how to test people in English fluency or any other language, but I think we need to bring greater descriptive clarity to what we mean by English proficiency, and that is for our own drivers as well as the Mexican drivers, and that exactitude has not been brought to the situation yet. It is something I think obviously, when we open the border, is going to be an even bigger issue, so that would be an area I think that FMCSA could prudently invest some time on.

There are just no standards that define what it means to be proficient in English. You can take the tests, as I understand it, in another language, so you cannot really say that the test is a measure of English proficiency.

Senator MURRAY. Senator Fitzgerald.

**STATEMENT OF HON. PETER G. FITZGERALD, U.S. SENATOR FROM ILLINOIS**

Senator FITZGERALD. Thank you, Madam Chairman, and I want to compliment you on hosting this joint hearing, and I want to thank the Secretary for coming. I think, Secretary Mineta, you are one of the most responsive Cabinet members to Congress in a long time, and I compliment you for your willingness to work with us, and thank you for your hard work in trying to implement the law that Congress passed last year with respect to Mexican trucks.

I was with the Transportation Department in not being fully supportive of this legislation but I note that, once it was passed, you stepped up to the plate and did not complain, and you have gone about working hard to implement it, and I want to compliment you on that.

If I could raise another issue which you and I have talked to each other about before, the O'Hare expansion issue, I just wanted to bring up that the House Transportation Committee passed a version of the bill yesterday which thankfully gutted what I thought were the most egregious provisions of the Senate bill.

The Senate bill is designed to do two things, 1) preempt the Governor of Illinois so that the Governor cannot stop the O'Hare expansion program from going forward, but 2) also to straitjacket the FAA into approving a specific runway design. It would be the first time in the history of our country that Congress would ever have put a gun to the head of the FAA and said, you must approve a runway design.

Thankfully, I understand that Representative Oberstar in the House was against that precedent, and he removed the straitjacket language, and the bill now moving through the House, all it does is preempt the Governor of Illinois. I just wanted you to be mindful of the action that the House had taken, because I think it speaks volumes that the House recognized that it would be a bad precedent for Congress to dictate a specific runway design to the FAA.

If we did that with respect to O'Hare, you can count on San Francisco Airport coming in wanting a bill that forces you to approve their new runway in the Bay, LAX will be in, Atlanta, Dulles, it will create a parade of horribles that could haunt our Nation for years to come.

I do want to emphasize, though, that I oppose the portion of the bill that remains in the House, and that is the preempting of the Governor of the State of Illinois. Right now, the Mayor of the city of Chicago has condemnation powers of the communities around O'Hare to expand O'Hare if he gets a permit from the Governor of Illinois. The legislation now moving through the Senate and the House would remove the requirement that the Mayor of the city of Chicago get a permit from the Governor of Illinois.

Another way of looking at it is, the bill gives the Mayor of the city of Chicago—and he is a very popular mayor, Mayor Daley, very popular in Chicago—but it will give him unfettered ability to condemn all parts of Illinois as long as he goes out contiguously from O'Hare. I do not think that is a good idea for Congress to be doing, and they cannot get it through the State legislature, so they are trying to do that here, probably making Mayor Daley the most powerful human being in the country, once he has that unfettered condemnation power.

I just wanted to bring those concerns to your attention while we had you here. I know that United and American are spending millions on lobbying for this bill, and I know they are lobbying members of your administration. They have hired a lobbyist for practically every Member of the Senate who is on the fence, but that does not mean that they are right on this. I happen to think this is a bad idea.

I also note that United is incurring a monstrous liability by having signed on to the World Gateway program, which will cost $4 billion for the terminal expansion at O'Hare. The runway expansion would cost $6 billion. There is $10 billion right there, assuming no cost overruns.

I think it fairly remarkable that United would have the audacity to incur that liability and at the same time come in and ask for a taxpayer handout in the form of a Government loan guarantee program, and I would hope the Department would consider the propriety of an airline assuming a monstrous new liability in offering to pay for $10 billion worth of work at O'Hare, and then at the same time coming in and ask for a taxpayer handout, and I know you have a representative on the Airline Stabilization Board, and I think that is a fair point to bring up.

One final point before I return to the Chairman is, the World Gateway program, which the Department just gave approval for last week, and it cost $4 billion. It will only add 12 new gates at O'Hare. The runway expansion will increase, if it goes through, increase the runway capacity by 78 percent, but we are only going to have 12 new gates, so this will mean more planes could land at O'Hare, they just will not have any place to park, and there will be no gates for them.

So this is a very disjointed and troubling program in my judgment. Chicago has needed a third airport since 1969, when O'Hare first reached capacity, and United has been doing everything and stopping at nothing to block the third airport so that new entrants cannot come into the Chicago market and compete with it, but I do not think that is benefiting consumers around the country.

With that, I have probably done enough of my rehearsal of a Senate floor filibuster, and so I will spare you any more. Again, I want to compliment the Department on your hard work, and compliment Secretary Mineta for being here, and you are one of the most knowledgeable Transportation Secretaries I think we have ever had, due to your experience in Congress, I think.

Secretary MINETA. Let me just mention—I just saw something where, is it Bensonville that is doing something relative to the condemnation action around the O'Hare Airport to counter what the city of Chicago is doing? Of course our responsibility in the Department, the FAA, is really as it relates to safety and air space and environmental issues, and we do not need legislation to be involved in those three areas.

Senator FITZGERALD. If the city wants to expand O'Hare they could just file an application with you for approval, is that not correct? They do not need legislation to file an application, right?

Secretary MINETA. But as I understand it, part of the issue in Chicago is that they need extraterritorial condemnation powers.

Senator FITZGERALD. Well, they have that under State law if they get approval from the Governor.

Secretary MINETA. From the Governor.

Senator FITZGERALD. Right, and——

Secretary MINETA. They can only do that if they get——

Senator FITZGERALD. Well, the current Governor is willing to give them that power, but what this bill does is, it strips away the requirement that they get a permit from the Governor.

Now, the reason that State law requires a permit from the Governor before Mayor Daley condemns communities outside Chicago is because he does not represent those communities and he is not accountable to them, so they want to have some State-wide official who is accountable to those people as a check on the power of the

Mayor of the city. If we remove the section of the State law by Federal legislation that requires a permit from the State before Mayor Daley can condemn, he will have unfettered condemnation rights, and he is not accountable to the people who—he will probably condemn my house, which is 12 miles away, but—he will have a lot of power. I do not think it is appropriate for Congress to be doing that.

Secretary MINETA. You will recall, Senator, we worked with you and others, and the Governor, to get the environmental report on the Peotone site.

Senator FITZGERALD. Well, I appreciate that, and I trust your Department to do the right thing in terms of the environment, in terms of safety, and in terms of maximizing air space over O'Hare and over Chicago generally. I think your Department will do the right thing, and I want you to take this on the merits and not have a gun put to your head by Congress telling you what you must do. I think that is a terrible precedent. We will not need an FAA if Congress starts politicizing all these runway design decisions.

The other thing the bill does is, it requires by law that all the runways be in the East-West direction. It would be illegal for the FAA to alter the plan to say, have them go Northwest-Southeast, which the controllers tell me they like to land the planes in the bad weather in the Northwest-Southeast, and the one parallel, the two parallel runways we have in the East-West direction are now shut down 3 percent of the year because of bad weather.

If they are all in the East-West direction, that could mean that 3 percent of the year, all six runways at O'Hare are shut down, and I think that highlights the impropriety of Congress designing a runway design. We do not know anything about that, and nullifying the discretion of your experts at the FAA I think is a terrible precedent.

Secretary MINETA. I think what they were trying to do is get enough separation so that they could get parallel landings, or operations, because the present configuration does not do it.

Senator FITZGERALD. Well, that is correct. We have to shut down one runway in bad weather now in Chicago, but under their design, two of the runways would have to be shut down in bad weather because they would only be 1,200 feet apart, as opposed to the 4,300-foot separation, so if the airlines continue to schedule for good weather conditions, I think under their design O'Hare will be even more of a bottleneck than it is now, but that is enough of my speech.

Thank you very much, Mr. Secretary.

Secretary MINETA. Thank you.

Senator MURRAY. Thank you, Senator.

Mr. Secretary, you have spent a lot of time and effort to make sure that the U.S. border is open to Mexican trucks in the name of free trade, and it has been reported that some of the larger Mexican carriers and brokers would prefer not to see U.S. trucking firms competing with them for business in Mexico, and that the Mexican customs requirements will prove to be an effective deterrent in keeping U.S carriers out.

Have you seen any evidence that the Mexican customs broker system will deter U.S. carriers from sending their own trucks into

Mexico, and should we be concerned that there is some kind of double standard here?

Secretary MINETA. I have not seen or heard that. I think there are other issues that might be of concern, but I do not think of the customs brokers in terms of any deterrence to them. It seems to me that with so many of Mexican trucks being owned by U.S. companies, that there would not be that kind of resistance to the trucking companies operating on either side of the border.

Joe, is there something you could clarify, or at least expand on, in terms of your own experience?

Mr. CLAPP. I think that there is not any question but that the Mexican Government and the industry in Mexico have had some concern over the regulations we have put into place. From their perspective, they appear to be a larger hurdle to clear than is the case for U.S. carriers or for Canadian carriers.

Our own view of that is, that it's really not the case. Because when they do operate in this country, all three countries' carriers must operate to precisely the same regulations. It is true, however, that Mexican carriers must receive a safety audit, unlike U.S. and Canadian carriers, before they can begin operations. It is true that their vehicles, as you well know, must be inspected according to the North American standards and maintain a current inspection sticker. We will be applying the same regime to U.S. and Canadian carriers as far as the safety audit is concerned, although not immediately prior to operating.

We believe that the system put in place, certainly with a great contribution by your Committee, is a good one. We are trying to convince the Mexicans of that, but there has been discussion on their side about the possibility of putting in mirror image requirements for U.S. carriers seeking to operate in Mexico. We expect to have ongoing deliberations with the Mexican Government.

Senator MURRAY. So those discussions are going on right now?

Mr. CLAPP. Yes. They have been, and they will continue.

Senator MURRAY. Secretary Mineta, one final question on this, and then I have a couple on Amtrak before we close this hearing. The fiscal year 2002 transportation bill provided $144 million for the FMCSA and the States to make sure that the safety requirements for cross-border trucking were met. Included in that amount were the one-time costs for the establishment of the permanent facilities, the training of inspectors, and the development of the information verification systems.

To determine how many inspectors, auditors, and how much space would be necessary, there were estimates based on applications received back in 1995. At that time, we had 196 applications that were received, but as of 2 days ago, only 40 applications have been received, representing only 117 vehicles.

Now, you have requested $116 million for oversight and enforcement of safety at the U.S.-Mexican border in fiscal year 2003. That would equate to about $1 million per Mexican vehicle. Do you think you may have overestimated the budget request, given the small number of applications we received to date?

Secretary MINETA. Well, as I recall, in terms of the numbers, we were required to have the number of safety auditors and safety investigators at the border, but we anticipate that there will be more

applications that we will see coming in. So I do not believe that even though we are gearing up right now in terms of the safety auditors and the others, we are doing it in anticipation of the traffic.

Senator MURRAY. So you expect a lot more requests——

Secretary MINETA. I believe so.

Senator MURRAY.—that will impact us in fiscal year 2003?

Secretary MINETA. And that is why under our buildup of the program, of the number of inspectors—for instance, like safety inspectors, we will have some of them on board by this spring, even though compliance reviews do not start until after the first of the year, but we do anticipate an increase.

Mr. CLAPP. Senator, to some extent that is driven by the requirements to be sure that we have a safety inspector on duty at all times any crossing is open. In a few cases those folks, especially early on, may look a little bit like the Maytag repairman, but we still need to be there. It is reasonable to assume that we will see some increase as time goes by.

Senator MURRAY. Mr. Mead.

Mr. MEAD. Yes, I have a couple of points. A year ago, when this arrangement was being worked out that you put into law, you only had 60 inspectors. By July 31 you are going to have 231 of them, trained, at the border. Spacewise a year ago, 17 to 25 of the crossings, you had space to park only one or two trucks at a time, and that is all changing very dramatically.

If I thought you were overfunding this, I would tell you. I would err on the safe side, and let us not forget that the vast, vast majority of these trucks do come into the United States, they are supposed to have licensed drivers, they are supposed to be safe, even though they may be only going 20, 25 miles inland, so I would just err on the side of caution here.

Senator MURRAY. All right. Well, thank you very much. I appreciate all that input on that. I do have a couple of Amtrak questions before we go here, that I think are important to clarify before we end this hearing.

Mr. Secretary, you do serve on the Amtrak board, and your Deputy Secretary, Mr. Jackson, has participated in innumerable briefings and conference calls with the full Amtrak board as well as the board's finance committee and its audit committee. Given that extensive level of involvement of your Deputy Secretary, why is the Administration voicing surprise over where we see the severity of Amtrak's financial crisis today?

Secretary MINETA. I think it is partially—or, rather that a great deal of that is attributable to the kind of information that has been provided, and I think that was one of the things that Mr. Gunn addressed immediately on coming aboard.

Senator MURRAY. Has Deputy Secretary Jackson met with Amtrak's audit board—with its auditors or its bankers?

Secretary MINETA. I think as board members KPMG has been there, but I do not believe he has met with them individually. I do not know. I would have to check with him on that issue, but I know that collectively the board has had KPMG at the board meeting.

Senator MURRAY. Let me go back to your request for fiscal year 2003, because that is what we are going to have to deal with once

we get past this initial crisis. 4 months ago, Deputy Secretary Jackson told me that your budget request for $521 million was a place-holder, and he said that you would announce a different budget request once you had laid out your long-term plan for Amtrak. A week ago today, you announced that long-term plan, but your budget request for $521 million has not changed even a penny.

Last week, I asked David Gunn when he testified before us whether an appropriation of $521 million for next year would put Amtrak into bankruptcy, and he said yes. Do you take exception with his testimony?

Secretary MINETA. Well, I think this is something, and I would like to—it is that old proverb, what the Secretary meant to say, and I have been asked to restate what I had said earlier, but in terms of that request, I believe it still is what we consider a place-holder, and I think the Administration is still, in terms of both policy and financial, in terms of how much would be required we are still working with the White House on this.

And if I might, Madam Chairwoman, read this statement because of my own error in what I had said earlier, I would just like to say that the Administration is committed to support additional funds for Amtrak——

Senator MURRAY. Above the $521 million?

Secretary MINETA. Above the direct loan that we announced yesterday. However, the Administration is still working with Amtrak, and we will be working with Congress before we announce exactly the amount of funds or the type of funds for the second tranche of the——

Senator MURRAY. You are referring to the short term.

Secretary MINETA. So that whether the second tranche would be direct loans, loan guarantees, or supplemental funds, are options that we are still looking at. And so that is what I am committed to say, so to the extent that we are still working on that detailed statement with—or not statement, but the detailed program, as members of the board of directors, we will hope to have that clarified.

Senator MURRAY. Well, given Amtrak's debt, would it not be more appropriate to ask for an appropriation, rather than more debt through loan guarantee?

Secretary MINETA. That is where we will look. We will work with you on what we are going to be asking for in fiscal 2002.

Senator MURRAY. When will we see that request?

Secretary MINETA. Well, I would assume that it would be sometime in mid-July. Sometime after, in the mid-July timeframe I would like to make sure we have the justification to you for the 2002 application for these funds.

Mr. MEAD. Ms. Murray.

Senator MURRAY. Yes, Mr. Mead.

Mr. MEAD. To just followup on the hearing the other day, Amtrak itself needs to provide some information about what its budgetary requirements are. Mr. Gunn speaks generically of $1.2 billion, and I know you and other members of the Committee are going to want to drill down and say, well, exactly what are the con-

stituent elements of that, Mr. Gunn, and so there is a responsibility here on Amtrak's part, too.

In IG, we were asked by the House to scrub the $1.2 billion, and the categories we would put that money in are different, in different amounts than Amtrak, so we do want to hear from Amtrak.

Senator MURRAY. I would agree. We need them at the table, but we need the Administration to be at the table quickly as well both for the short term and for the long term. We need to know what your short-term request is, whether it is an appropriation or a loan, we need to make a determination of what is in the railroad's best interest, and how we are going to get that through, and I must say I am very confused as to what the Administration is going to ask us for, and we are on a very short timeframe.

And I would say in the long run, I do not know how long you expect us to live with the place-holder, but we need to have a better understanding, because we are going to back in July, the Chair of this Committee and the Appropriations Committee expects us to have bills moving by the August recess, and in order to put that request together with all of the other things I need to balance in my transportation appropriations, we need to know sooner rather than later, and I mean sooner within days.

Secretary MINETA. All right. We will comply with that.

Senator MURRAY. Thank you very much. I want to thank all the witnesses for appearing this morning. This joint Committee hearing stands adjourned.

[Whereupon, at 11:50 a.m., the Subcommittees adjourned.]

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