

**SENATE—Tuesday, July 24, 2001**

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. BYRD].

**PRAYER**

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of our Nation and personal Lord of our lives, thank You for the gift of prayer. It is awesome that You who are Creator, Sustainer, and Redeemer of all, know each of us by name and know our needs before we ask You. In this sacred moment, we realize that we need You more than anything You can give us. You created each of us to know and enjoy You as our Master and Friend. You who are so mighty are also magnanimous in our friendship with You. You love us, give us security, and replenish our hope. Time with You changes everything: Our stress and strain are healed by Your peace; our worries are resolved by trusting You; our burdens are lifted off our backs; our souls are replenished by Your indwelling Spirit. You care for us so much that You confront us when we are tempted with pride, anger, or impatience. You change our thinking when it gets muddled or confused. You have challenged us to pray and care for each other across party lines. You give us the courage to put the needs of the Nation first, above political advantage. Bless this Senate with unity, civility, and productivity today. You are our Lord and Saviour. Amen.

**PLEDGE OF ALLEGIANCE**

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

**RECOGNITION OF THE ACTING MAJORITY LEADER**

The PRESIDENT pro tempore. The majority whip is recognized.

**SCHEDULE**

Mr. REID. Mr. President, today we will resume consideration of the Transportation Appropriations Act. Senators MURRAY and SHELBY are anxious to move this as quickly as possible. There will be rollcall votes on amendments throughout the day.

The two leaders met yesterday to discuss what the remaining schedule would be for this week and next week. There are certain things that have to

be done prior to the recess. The two leaders recognize that. I am sure there will be announcements made in the near future as to what those items are.

The Senate will recess from 12:30 to 2:15 today for the weekly party conferences.

I am brought back to the prayer by Reverend Ogilvie where he said, among other things, that he hopes today is a productive day. I do, too. We have so many things to do, not the least of which is this Transportation appropriations bill, which is important for every State of the Union. I hope we can move through this bill expeditiously and, as the Chaplain said, be very productive today.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

**DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002**

The PRESIDENT pro tempore. Under the order previously entered, the Senate will now resume consideration of H.R. 2299, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

**Pending:**

Murray/Shelby amendment No. 1025, in the nature of a substitute.

Murray/Shelby amendment No. 1030 (to amendment No. 1025), to enhance the inspection requirements for Mexican motor carriers seeking to operate in the United States and to require them to display decals.

Mr. NELSON of Florida. Mr. President, I will speak on the matter of the Transportation bill.

The PRESIDENT pro tempore. The Senator may proceed.

Mrs. MURRAY. Mr. President, may I inquire of the Senator how long he intends to speak?

Mr. NELSON of Florida. About 3 minutes.

Mrs. MURRAY. I thank the Senator. Mr. NELSON of Florida. Mr. President, Floridians who travel Interstate 4 between Tampa and Orlando need relief. The congestion they encounter on the I-4 corridor is paralyzing, and it is

not just a problem for our residents in Florida. It is also a nuisance for the millions of tourists who visit central Florida each year. With each new tourist attraction comes another traffic snarl. We must find ways to relieve the gridlock, but double-decker highways are not the answer.

Last year, Florida's voters approved an initiative in a statewide referendum that requires the State to build a high-speed train linking five of our largest urban areas, and the spending measure that is now before the Senate, particularly today—and we hope to complete it today—will begin to start helping Florida meet that goal.

I am very grateful to our colleagues for including in this Transportation appropriations bill \$4.5 million for bullet train planning in the corridor from Orlando to Tampa. Senator GRAHAM and I fought for this funding because we knew that our traffic problems could not be solved by adding more lanes to our highways. And we have an excellent opportunity in this high-traffic corridor between Tampa and Orlando, where you can't build your way out of the problem with new lanes, of creating a model for a new kind of transportation corridor with specialized lanes and a high-speed rail running down its center.

The State of Florida has also committed \$4.5 million in planning money to a high-speed rail authority, and with this kind of partnership between the State government and the Federal Government, we can make this high-speed train a reality in that corridor that needs it so desperately. The benefits could be enormous. A high-speed train between Tampa and Orlando could travel more than 120 miles an hour, providing commuters with a safer and faster alternative to their daily battles with the traffic gridlock and the traffic jams.

I commend the Senator from Washington, the chairman of the appropriations subcommittee, and her ranking member, the Senator from Alabama. I am so pleased the committee has provided this important funding, and I am going to continue to work with my colleague from Florida to see that this money is included in the final version of this bill.

Mr. President, I thank you very much for this opportunity to state something that is so important to Florida.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Washington is recognized.

AMENDMENT NO. 1030

Mrs. MURRAY. Madam President, now that we have again called up the Transportation bill, I want to take some time to address the issue of Mexican trucks. This issue was discussed yesterday evening by a number of Senators, and I thought it would be valuable to take some time to discuss the provisions in the committee bill and explain to my colleagues why it is so critical that the Senate include these strong safety requirements in the bill we send to conference.

The ratification of NAFTA 7 years ago anticipated a period when trucks from the United States, Canada, and Mexico would have free rein to service clients from across the three countries. This was not really a change in policy as it pertained to Canada, since the United States and Canada had reciprocal trucking agreements in place long before NAFTA was ratified. However, it did require a change when it came to truck traffic between the United States and Mexico.

For several years, the opening up of the border between these two countries was effectively put on hold by the administration due to their concerns over the absence of reasonable safety standards for trucks operating in Mexico. While Mexican trucks have been allowed to operate between Mexico and a defined commercial zone along the border, the safety record of those trucks has been abysmal. The Department of Transportation inspector general, the General Accounting Office, and others have published a number of reports documenting the safety hazards presented by the current crop of Mexican trucks crossing the border.

At a hearing of the Commerce Committee last week, the inspector general testified about instances where trucks have crossed the border literally with no brakes. Officials with the IG's office have visited every border crossing between the United States and Mexico, and they have documented case after case of Mexican trucks entering the United States that were grossly overweight, that had no registration or insurance, and that had drivers with no licenses.

This chart to my left displays the likelihood that trucks will be ordered off the road by U.S. truck inspectors, and I think the numbers speak for themselves. According to the Department of Transportation's most recent figures, Mexican trucks are 50 percent more likely to be ordered off the road for severe safety deficiencies than United States trucks, and Mexican trucks are more than 2½ times more likely to be ordered off the road than Canadian trucks.

Equally troubling is the fact that Mexican trucks have been routinely violating the current restrictions that limit their area of travel to the 20-mile commercial zones. The DOT inspector

general found that 52 Mexican trucking firms have operated improperly in over 26 States outside the four southern border States. An additional 200 trucking firms violated the restriction to stay within the commercial zone in the border States.

Mexican trucks have been found to be operating illegally as far away from the Mexican border as New York State in the Northeast and my own State of Washington in the Northwest. The inspector general reported on one shocking case where a Mexican truck was found on its way to Florida to deliver furniture. When the vehicle was pulled over, the driver had no logbook and no license. As I said, there have been experiences such as this in half the States in the continental United States. Given this deplorable safety record, the official position of the U.S. Government since the ratification of NAFTA was that the border could not be open to cross-border trucking because of the safety risks involved.

Two things have caused a change in this policy: First, a new administration has come into power, one that believes the border should be opened. Second, the Mexican Government successfully brought a case before a NAFTA arbitration panel. That panel ruled the U.S. Government must initiate efforts to open the border to cross-border trucking.

This new policy brought about a frenzy of activity at the Department of Transportation so that the border could be opened to cross-border trucking as soon as this autumn. The agency has hastily cobbled together a series of measures intended to give United States citizens a false sense of security that this new influx of Mexican trucks will not present a safety risk. These measures have been reviewed by both the House and Senate Transportation Appropriations Subcommittees and have been found to be woefully inadequate.

When the House debated the Transportation appropriations for fiscal year 2002, its concerns about the inadequacy about the DOT safety measures were so grave that they resulted in an amendment being adopted on the floor of the House that prohibited the Department of Transportation from granting operating authority to any Mexico-domiciled trucking company during fiscal year 2002.

That amendment passed by a 2-to-1 margin, 285-143. Moreover, by the time the Transportation bill left the House, it had been stripped of every penny of the \$88 million the administration requested to improve the truck safety inspection capacity at the United States-Mexico border.

The administration's approach is to allow Mexican trucks to come in and to inspect them later. At the other extreme, the House approach is to prevent Mexican trucks from coming in and to refuse to inspect them at all.

What Senator SHELBY and I have done is to write a commonsense compromise that will inspect all Mexican trucks and then let them in. Just as we require Americans to pass a driving test before they get a license, the bipartisan Senate bill before us requires Mexican trucks to pass an inspection before they can operate on our roads.

First, the bill includes \$103 million—\$15 million more than the President's request—for border truck safety activities.

Second, the bill establishes several enhanced truck safety requirements that are intended to ensure that this new cross-border trucking activity does not pose a safety risk.

The enhanced safety provisions included in the Senate bill were developed based on the recommendations that the committee reviewed from the DOT inspector general, the General Accounting Office, and law enforcement authorities, including the highway patrols of the States along the border.

They will ensure there is an adequate safety regime in place before our borders are opened to cross-border trucking. The provision was approved unanimously by both the Transportation Appropriations Subcommittee and the full Appropriations Committee.

In a moment, I will review the committee's safety recommendations in detail, but first I want to address the issue of compliance with NAFTA.

I have heard it alleged that the provision adopted unanimously by the committee is in violation of the NAFTA. Nothing could be further from the truth. I voted for NAFTA, and I support free trade. My goal is to ensure free trade and public safety progress side by side. But rather than take my opinion or that of another Senator, we have a written decision by an arbitration panel that was charged with settling this very issue. That arbitration panel was established under the NAFTA treaty, and it is that panel's ruling that decides what does and does not violate NAFTA when it comes to cross-border trucking.

I want to read a quote from the findings of the arbitration panel. That quote is printed on this chart. I want to read it to my colleagues:

The United States may not be required to treat applications from Mexican trucking firms in exactly the same manner as applications from United States or Canadian firms . . . U.S. authorities are responsible for the safe operations of trucks within U.S. territory, whether ownership is United States, Canadian, or Mexican.

The arbitration panel made clear that under NAFTA, the United States is within its rights to impose whatever safety regimen it considers necessary to ensure safety on U.S. highways.

While the Department of Transportation has stated it is seeking to treat U.S., Mexican, and Canadian trucks in the same way, the fact is, we are not required to treat them in the same

way. Where greater safety risks exist, we are entitled under NAFTA to impose stricter safety conditions. That is what the provisions adopted unanimously by the Appropriations Committee do. They establish stricter safety conditions for those Mexican trucks that want to travel anywhere in the United States.

It is a very convenient argument for the administration to claim these safety provisions somehow violate NAFTA. They make that argument for one reason and one reason only: because they want to convince Senators they must choose between safety and free trade. I am not fooled. The Committee on Appropriations and its Subcommittee on Transportation were not fooled, either. I voted for NAFTA, but I also read the arbitration panel's decision that made clear we are within our rights to impose whatever safety requirements are necessary to protect our highways. The safety requirements that the Department of Transportation has proposed are grossly inadequate.

Now, lest anyone thinks this is partisan, I make clear I think the truck safety record under the Clinton administration was not any better. We have a lot to do in terms of moving the safety agenda forward, not just in terms of Mexican trucks but all trucks.

Let me take a few moments to discuss in detail the truck safety provisions that were reported in the committee bill. First, inspectors must be on duty. The provision adopted unanimously by the committee requires Mexican trucks cross the border only at those points where inspectors are actually on duty.

The DOT inspector general found that Federal and State border inspectors were on duty 24 hours a day at only two border crossings. Mexican trucks crossing the border during off hours are not subject to inspection. The committee provision requires that Mexican trucks cross the border only at those inspection stations where inspectors are actually on duty. How can anyone possibly argue that our safety is being protected if these trucks are rolling across the border where no safety inspector is on duty? Yet that is currently the case at certain times of the day at 25 of the 27 border crossings.

The inspector general has compiled data that shows conclusively that there is a direct correlation between inspection staffing levels at the border crossings and the quality of trucks that cross at those border crossings. Put simply, trucks that need to worry about being inspected tend to cross the border at those crossings where an inspector is not on duty. That is a loophole that must be closed.

Second, Mexican truck companies must have thorough compliance reviews. The DOT plans to issue conditional operating authority to Mexican truck companies based on a simple

mail-in questionnaire. All that the Mexican truck companies will need to do under their plan is to check a box saying they have complied with U.S. regulations and their trucks will start rolling across the border. In fact, under the DOT plan, Mexican trucking companies would be allowed to operate for at least a year and a half before they would be subjected to any comprehensive safety audit by the Department of Transportation. Under the committee provision, no Mexican trucking firm will be allowed to operate beyond the commercial zone until inspectors have actually performed a compliance review on that trucking company. This review will look at the conditions of the trucks and the recordkeeping. They will determine whether the company actually has the capacity to comply with U.S. safety regulations.

Once they have begun operating in the United States, Mexican trucking firms will undergo a second compliance review within 18 months. That second review will allow the DOT to determine whether the Mexican trucking firm has complied with U.S. safety standards. It will allow them to review accident and breakdown rates, their drug and alcohol testing results, and whether they have been cited frequently for violations.

Third, compliance reviews of Mexican trucking firms must be performed onsite. Every time a U.S. motor carrier safety inspector performs a compliance review on a U.S. trucking firm, it is done at the trucking firm's facility. Every time a U.S. motor carrier safety inspector performs a compliance review on a Canadian trucking firm, it is done at the Canadian trucking firm's facility. When it comes to Mexico, the Department of Transportation wants to allow compliance reviews to be conducted at the border. This is a farce. A compliance review by definition requires the inspector to carefully review the trucking firm's vehicles, record books, logbooks, wage and hour records, and much, much more. You cannot perform a compliance review at a remote site. It is not even a poor substitute.

At the same time as the DOT claims it wants to provide for equal treatment between U.S. trucking firms, Mexican trucking firms, and Canadian trucking firms, they want to establish a huge loophole where Mexican trucking firms don't have to be subject to inspection. There is a long list of abuses that could result if inspectors never visit a trucking company's facility. For the life of me, I cannot imagine why the DOT wants to allow those potential abuses on the part of Mexican trucking firms while insisting every compliance review in the United States and in Canada is performed onsite.

Fourth, we must verify all documents at the border. The provision that has been reported by the com-

mittee requires that the license, registration, operating authority, and insurance of every Mexican truck be verified at the border. This is absolutely essential if we are to be sure that the vehicles crossing the border are being driven by experienced drivers, with safe driving records, and that the vehicles are insured and registered.

It is well understood that, while the condition of a truck is important when it comes to maintaining safety, the capabilities of the driver are far more important when it comes to minimizing the risk of a fatal accident. Our experience in dealing with illegal immigration and illegal drug trafficking across the United States-Mexico border has shown that there is a recurring problem of forged documents among people crossing the border.

We cannot allow individuals with forged documents to drive 18-wheelers anywhere in the United States. It is simply common sense that we make the extra effort to verify the license, insurance, and registration of the trucks when they cross the border.

Fifth, we must require scales and weigh-in-motion machines at the border. The provision passed unanimously by the committee requires all border crossings to be equipped with both scales and weigh-in-motion machines.

At present, vehicles in Mexico are allowed to operate at weights that are far in excess of permissible weights in the United States. There are no weigh stations currently operating in Mexico. None. The reasons for requiring both weigh-in-motion machines and scales at each border crossing are simple: to move trucks rapidly while keeping overweight trucks out of the United States. It would be very time consuming to put every truck on scales as they cross the border. However, weigh-in-motion machines allow our inspectors to pull out of the line only those few trucks that they suspect to be overweight. At present, the Federal Motor Carrier Safety Administration will not allow an enforcement act to be taken against an overweight truck based on the findings of a weigh-in-motion machine, so scales are necessary for the DOT to actually enforce U.S. weight restrictions. There is no point in weighing the vehicles if you are not prepared to take enforcement action against those that are overweight.

Recently, the DOT praised extensively the border safety regime in place at the Otay Mesa border crossing in California. Otay Mesa has both weigh-in-motion machines and scales to conduct enforcement actions on overweight trucks. That is the model that the committee provision would extend to other border crossings between the United States and Mexico.

Sixth, we must require Mexican firms to have U.S. insurance. The provision adopted unanimously by the committee requires Mexican trucking

firms to obtain insurance, and their insurer must be licensed to operate within the United States.

This is the requirement that currently pertains to Canadian trucking firms seeking to operate in the United States. We do not understand why, if the requirement is good enough for the Canadian trucking companies, the DOT thinks it's too onerous for the Mexican trucking companies.

There could be significant hurdles and challenges to collecting insurance claims from Mexican insurers. American motorists who have been injured by Mexican trucks could face serious jurisdictional hurdles to getting compensated for their injuries.

We will also be able to verify the solvency of these insurance companies writing these insurance policies if they are operating in the United States. We will not have that capability when it comes to Mexican insurance companies.

At present, the Mexican trucks crossing the border legally into the commercial zone purchase insurance policies that last only 1 day. These insurance policies are granted by Mexican insurance companies routinely without any knowledge of the condition of the truck.

Do we really want a situation where a Mexican trucking firm heading to Chicago and back has an insurance policy that is only 5 days long with the trucker getting a different policy from a different insurance company every time he crosses the border?

We must make sure that the Mexican trucking companies operating in the U.S. have the kind of insurance that is verifiable, sustainable, solvent, and cooperative when it comes to paying off claims made by U.S. motorists and U.S. companies that have been injured by Mexican trucks.

Seventh, we must ensure rules are in place before the border is opened. The provision unanimously adopted by the Appropriations Committee requires that critically important safety rules are completed by the DOT before the border can be opened. These rules were not randomly selected. The rules that we require to be published before the border can be opened are targeted at the specific safety concerns surrounding Mexican trucks.

The rules that would be required to be published before the border can be opened include: Rules mandating that foreign trucking companies including Mexican trucking companies be aware of U.S. safety standards; rules establishing minimum training standards for U.S. truck inspectors; rules requiring the development of staffing standards to determine the appropriate number of inspectors at the Mexican border; rules prohibiting foreign motor carriers, including Mexican trucking companies, from leasing their vehicles to another trucking company if they

have been subjected to a suspension, restriction, or limitation on their right to operate in the U.S.; and rules permanently disqualifying any foreign motor carrier that is found operating illegally in the United States.

All of these rules are specifically pertinent to the safety challenges presented by Mexican trucks.

All of these rules were called for in the Motor Carrier Safety Improvement Act that was signed into law over a year and a half ago.

But the DOT wants to put the cart before the horse. The DOT wants to allow Mexican trucks across the border first and then develop the pertinent safety standards later.

When the Congress passed the Motor Carrier Safety Improvement Act, we did so with the knowledge that we would be facing a day in the future when Mexican trucks may be allowed free access into the United States. That is why the strong safety requirements were put into that bill.

Now the DOT wants to let the Mexican trucks across the border without implementing these new requirements. The DOT is arguing that it may take a year or two to finalize these regulations and to put these rules into place.

If it requires an extra 12 months so that safety is not undermined by the influx of Mexican trucks, then it will be worth the wait.

Eighth, inspector positions must be filled by trained inspectors. The provision adopted unanimously by the committee fully funds the DOT's request for 80 additional inspectors for the Mexican border.

The committee provision also includes a requirement to ensure the DOT does not fulfill the requirement by simply moving safety inspectors to the border from elsewhere in the country.

We have Federal Motor Carrier Safety Inspectors in my State and every other State, and they are charged with maintaining truck safety in those states. I don't think that any of us want to see all our truck safety inspectors throughout the U.S. move down to the Mexican border just so the DOT can allow trucks to be moving across the border by this fall.

Ninth, our borders must have adequate inspection capacity. The DOT Inspector General found that in 47 percent of the border crossings, Federal and State inspectors had space to inspect only one or two trucks at a time. At more than half of the border crossings, inspectors had only one or two spaces to park out-of-service trucks. That fact severely undermines their ability to order trucks off the road.

It is one thing to say that you have inspectors on duty, and it is a very different thing to say that there is sufficient capacity at the border to do meaningful inspections and, if need be, order trucks off the road.

The provision, reported unanimously by the committee, requires the DOT inspector general to certify that the inspection stations have sufficient capacity to conduct meaningful inspections and the ability and capacity to order trucks off the road if necessary.

Tenth, we must have adequate data systems in place. The provision adopted unanimously by the committee requires the inspector general to certify that the database that is being compiled on Mexican trucking firms and Mexican drivers is sufficiently accurate and accessible to allow U.S. law enforcement authorities to conduct their work.

These databases are key if we are going to be able to monitor the safety performance of Mexican trucking firms and Mexican truck drivers.

The DOT inspector general found significant problems with the accuracy and completeness of the law enforcement databases on Mexico-domiciled trucking companies.

In fact, they found that there were 900 Mexican trucking companies that could not be accounted for between the database on insurance and licensing and a separate database that houses identification numbers.

While it is true that the Mexican Government is starting to compile its own databases, it is widely recognized that there is not nearly enough information in the database to enable U.S. law enforcement to gather any information on the safety record of Mexican trucking firms and Mexican drivers.

The committee provision requires the DOT inspector general to certify that these databases are actually functioning in a way where U.S. law enforcement can do its job.

It is not enough to have the computers operating. There needs to be sufficient information to allow U.S. law enforcement to keep unsafe Mexican trucking firms and unsafe Mexican drivers off our roads.

Eleventh, we must be able to enforce license revocation. When our colleague Jack Danforth was in the Senate and serving as chairman of the Commerce Committee, he made a great many contributions to transportation safety.

One of his greatest contributions was the law requiring a uniform commercial drivers license here in the United States. That requirement came in the wake of numerous horror stories where U.S. truckdrivers had their licenses revoked and then got new licenses in other states so they could continue driving.

Jack Danforth put a stop to all of that. He put a system in place in the United States where we monitor the issuance of commercial drivers licenses in all 50 States, to make sure that multiple licenses aren't being issued to the same driver.

There is no such system in Mexico. In fact, there is hardly any computerized

data on who is getting a commercial driver's license in Mexico. There is almost no data on the driving record history of Mexican drivers within the Mexican system.

The provision unanimously adopted by the committee requires the DOT inspector general to certify that there are mechanisms in place within Mexico to ensure that Mexican drivers with insufficient driving records have their licenses revoked and cannot get a new license through surreptitious means.

The DOT claims that it supports subjecting Mexican drivers and Canadian drivers to the exact same standards as U.S. drivers. Yet there is absolutely no mechanism in place in Mexico to make that into a reality.

No one in Mexico is monitoring the safety record of Mexican drivers to any degree of accuracy. As of today, there is no capability of U.S. law enforcement authorities to tap into a database that is sufficiently comprehensive to give a clear picture of an individual's driving record in Mexico.

It is going to take several months for the Mexicans to compile such a database and, even then, its accuracy is going to be questioned.

None of us wants a catastrophic truck accident in our State and to find out that it was the driver's fourth or fifth accident. If we are serious about subjecting all truckdrivers to the same safety standards, then there needs to be some mechanism in place to ensure that the driving performance of Mexican truckers is being monitored as it is here in the United States.

Twelfth, the California inspection plan. The final provision I would like to discuss is the pending amendment before the Senate. It is sponsored by Senator SHELBY and myself. We laid the amendment down last Friday when the bill was first brought up in the Senate.

We think it is an important measure that strengthens the truck safety provisions in the underlying bill.

During the hearings last week in both the House and Senate authorizing committees, much attention was paid to the inspection system that has been implemented by the State of California to handle the safety deficiencies posed by Mexican trucks. The California system requires every truck seeking to cross the border to be fully inspected at least every 90 days. This requirement is dramatically more stringent than currently exists at the border with Texas, Arizona, or New Mexico.

As a result of this stronger enforcement effort, the percent of Mexican trucks ordered off the road has dropped to a level that is better than that of other border crossings.

The provisions in the bill already reported by the committee require strict new measures to verify the licenses, registration, operating authority, and insurance of all Mexican trucks crossing the border.

This additional amendment will impose the California plan at all border crossings between the U.S. and Mexico.

It is my understanding that the administration supports the imposition of this new inspection regime. I think it strengthens the bill in an important way that will better protect the safety of our constituents.

Finally, it has been alleged that all of the safety measures that have been included in the committee bill will cost more money than has been provided to date.

If the DOT needs more money to ensure the safety of America's highways, then I believe that Secretary Mineta and OMB should come forward with a request for the additional funds.

The appropriations bill reported by the committee already provides \$15 million more for the border truck safety activities than was requested by DOT. If the DOT comes forward with a formal request for more resources, the committee will work with the Department to find the necessary resources. It will be money well spent.

For several years, our country has been looking for a way to balance the open trade—called for by NAFTA—with the safety we expect on our highways.

We understand that commerce must move, but we are concerned about the safety of Mexican trucks—especially since they are 50 percent more likely to violate our safety standards.

After a lot of hard work, after listening to the safety experts, the Department of Transportation, the GAO and the industry, we have come up with a plan that allows both goals—free trade and safe roads—to progress side by side.

This bill will not violate NAFTA. The arbitration panel already told us that we can take steps to ensure our safety.

Let me repeat that. The official panel that determines compliance with NAFTA has already told us we can take the safety measures we need. This bill does not violate NAFTA.

This bill won't stop trade across our border, but it will stop unsafe drivers and unsafe trucks from threatening the American public.

Under our bill, when you are driving on the highway and there is an 18-wheeler with a Mexican license plate in front of you, you can feel safe.

You will know that the truck was inspected.

You will know that the company has a good track record.

You will know that an American inspector visited their facility—on site—and examined their records, just as we do with Canadian trucking firms.

You will know that the driver is licensed and insured.

You will know that the truck was weighed and is safe for our roads and bridges.

You will know that we are keeping track of which companies and which

drivers are following our laws—and which ones are not.

You will know that if a driver is breaking our laws, we will revoke his license.

You will know that the truck didn't just cross our border unchecked but crossed where there were inspectors on duty, ensuring our safety.

That's a real safety program.

This is a solid compromise. It will allow robust trade while ensuring the safety of our highways.

I appreciate that some Members want to take a different approach. I am here, and I am willing to listen to constructive ideas.

But as a country, we should not move toward weaker safety standards.

And as a Senator I will not help the Senate weaken the standards that ensure the safety of the American public.

We can have free trade and safe highways—and this bill shows us how.

It sets up a real safety program that will keep Americans safe and it fully complies with NAFTA.

I urge my colleagues to support this pro-safety, pro-trade bill.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I ask unanimous consent that the Senator from North Dakota, Mr. DORGAN, be immediately recognized after my remarks.

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

Mr. SHELBY. Madam President, I know that we have and will hear a great deal about Mexican trucks during the consideration of the Transportation appropriations bill, and much of the information will seem to be inconsistent or contradictory. In the interests of a meaningful and productive discussion of the issue, I would like to summarize what we do know about Mexican trucks.

According to the Department of Transportation inspector general, during Fiscal Year 2000, the Federal Motor Carrier Safety Administration reports show that Federal and State inspectors performed 46,144 inspections on Mexican trucks at the border and within the commercial zones. For those inspected, the out-of-service rate declined from 44 percent in fiscal year 1997 to 36 percent in fiscal year 2000. By comparison, United States trucks' out-of-service rate for fiscal year 2000 was 24 percent.

Clearly, the data we do have indicates that the out-of-service rate for Mexican trucks is 50 percent higher than our own domestic truck fleet. Accordingly, we need to do more to inspect trucks entering the United States at the Mexican border.

The President's budget request and the committee reported Transportation appropriations bill does do more: the President's budget requested \$88 million for inspectors and new border inspection facilities and the committee

reported bill provides a minimum of \$103 million for inspectors, safety grants to states, and new border facilities—quite an increase.

In the near term, developing an inspection capability that includes providing inspectors and inspection facilities at the border crossings is central to ensuring compliance with United States safety regulations.

Unfortunately, those capabilities, necessary regulations, forms and facilities are not yet in place to provide an inspection and enforcement regime that can assure Americans that Mexican trucks entering the United States, including the commercial zone, can match the out-of-service rates of the United States trucking fleet, much less the Canadian trucks operating in the United States.

No one should believe that Mexican trucks are inherently any better or any worse than trucks from any other country—the United States or Canada.

But unless a Mexican inspection regime is in place in that country that can give Americans the confidence that trucks from Mexico are statistically as safe as trucks operating in this country, we must provide an inspection and regulatory system that insures that trucks entering from Mexico meet a minimum level of fitness to operate on our highways.

There has been a clamor that somehow providing an inspection and regulatory regime for Mexican trucks entering the United States violates NAFTA. As a Senator who did not support NAFTA, I do not believe that NAFTA should dictate what the United States Congress can and cannot do regarding the safety of vehicles operating on our highways.

In fact, NAFTA itself provides that motor carriers entering a NAFTA country must comply with the safety and operating regulations of that country. Accordingly, requiring that Mexican truck drivers have a valid commercial driver's license or that Mexican-domiciled trucks are safe is clearly within the spirit and the letter of NAFTA.

The NAFTA arbitration panel held:

The U.S. authorities are responsible for the safe operations of trucks within U.S. territory, whether ownership is United States, Canadian, or Mexican.

It is the duty, I believe, of the U.S. Congress to provide the policy guidance for those U.S. authorities. The committee-reported bill takes the appropriate steps to provide that policy guidance.

Let me briefly describe the Murray-Shelby language that is in the committee-reported bill and the amendment to that language currently before the Senate.

In addition to the minimum of \$103 million for inspectors, safety grants to States, and new border facilities, under the committee-reported bill:

We require the Department of Transportation to only allow Mexican trucks to cross the border at inspection facilities where inspectors are present and on duty;

Further, we require the Department of Transportation to allow the full opening of the border only—yes, only—when the inspector general certifies that all of the 80 new inspectors provided under the committee funding recommendation are fully trained as safety specialists capable of conducting compliance reviews;

Further, we require the Department of Transportation to perform a full safety audit of each Mexican trucking firm before any conditional operating certificate is granted and then to perform a full followup compliance review again within 18 months before granting a permanent operating certificate;

Further, we require that all safety audits of Mexican trucking firms take place on-site at each firm's facilities;

We prohibit the full opening of the border until the inspector general certifies that the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance on the part of Mexican truckers with pertinent hours-of-service rules;

Further, we prohibit the full opening of the border until the Inspector General certifies that the information infrastructure of the Mexican authorities is sufficiently accurate, accessible, and integrated with that of U.S. law enforcement authorities to permit the verification of the status and validity of licenses, vehicle registration, operating authority, and insurance of Mexican-domiciled motor carriers while operating in the United States;

Further, we prohibit the full opening of the border until the Department of Transportation requires checks of Mexican-domiciled trucks by federally funded inspectors for violations of applicable Federal regulations;

Further, we prohibit the full opening of the border until the inspector general certifies that there is adequate capacity to conduct a sufficient number of truck inspections to maintain safety;

Further, we prohibit the full opening of the border until the Department of Transportation equips all Mexican border crossings with weigh-in-motion systems as well as fixed scales for enforcement action;

Further, we prohibit the full opening of the border until the inspector general certifies that there is an accessible database containing sufficiently comprehensive data to allow for safety performance monitoring of all Mexican drivers entering the United States; and

We prohibit the full opening of the border until the inspector general certifies that the Department of Transportation has published certain overdue regulations relating to motor carrier safety.

In addition, the pending Murray-Shelby perfecting amendment improves the inspection requirement in the Mexican truck provisions in the committee-reported bill to require the inspection of all Mexican trucks that do not display a current Commercial Vehicle Safety Alliance—CVSA—inspection decal—and requires renewal of those decals every 90 days.

This is the so-called California standard, and adding it to the underlying inspection and enforcement regime included in the committee-reported bill, we believe, improves the overall inspection process.

According to the Commercial Vehicle Safety Alliance, current data and information on Mexican companies, who intend to travel internationally from Mexico to the United States, is quite limited. This is because:

First, there have been few safety regulatory requirements placed on the industry until very recently;

Second, there are a limited number of personnel trained and continually performing oversight functions; and

Third, the information infrastructure has not been in place to capture and record the results of the current limited oversight being performed by the Mexican Government.

Given the shortcomings in the inspection and regulatory regime for Mexican trucks and the immediacy of the Mexican truck issue, the Murray-Shelby approach is one way to move this issue forward while balancing the need to foster safety on our highways without closing the border to Mexican trucks.

While this is an emotional issue for many, the Murray-Shelby approach is a dispassionate treatment of the core issues related to inspection, border and information infrastructure investment, and providing a rational playing field for international trucking activities. I stand ready, with the Senator from Washington, to work with interested Members and the administration to move this legislation to conference.

In conference, we will continue to work with all interested parties to make sure that the requisite investments and safety protections are in place to further the Nation's interests in a safe, economically viable, and fair international truck inspection system.

Madam President, I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Washington.

Mrs. MURRAY. Madam President, I ask unanimous consent that following the remarks of the Senator from North Dakota, the Senator from Colorado be allowed to speak for 10 minutes.

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

The Senator from North Dakota.

Mr. DORGAN. Madam President, this is a very interesting and a very important issue. There are a number of ways

to address this issue. One method is to address it in the manner chosen by my colleagues, Senator MURRAY and Senator SHELBY. Another method would be the approach chosen by the House of Representatives that passed by a nearly 2-to-1 margin, a provision that simply prohibits the use of funds in the next fiscal year to license trucks to go beyond the 20-mile limit that are doing hauls out of Mexico.

Let me describe this issue, if I might, so that we all get an understanding of what is happening. We are trying to plug together two economies with NAFTA, the North American Free Trade Agreement. I did not vote for NAFTA. I did not think it was a good trade agreement. I thought it was terribly negotiated, badly negotiated on our behalf. And I think evidence suggests that has been the case.

We took a trade relationship with Mexico, which had a small surplus for us, and turned it into a very large deficit that is growing and growing and growing. We took a deficit with Canada and doubled it, and then some. So I do not think NAFTA turned out very well for a range of reasons.

We were told, when we passed NAFTA: NAFTA will allow the product of unskilled labor from Mexico to be moved into the United States; and that is essentially what will happen with respect to the trade coming from Mexico. In fact, since NAFTA was passed, what are the most common imports and the largest imports from Mexico to the United States? The product of skilled labor—automobiles, automobile parts, and electronics—exactly the opposite of what was suggested when NAFTA was enacted.

But aside from all of that, aside from the fact that it has taken skilled jobs away from the United States and moved them to Mexico; aside from the fact that it has turned a surplus with Mexico into a huge trade deficit, we are now told by a panel that negotiates these issues of trade compliance that we must allow Mexican long-haul truckers into this country.

We have, since the NAFTA agreement, prohibited Mexican long-haul truckers from going beyond the 20-mile limit established by the previous administration. We are now told that must change, and we must allow access to the United States by Mexican long-haul truckers. Many are concerned about that, myself included.

Let me give you just an example of why one might be concerned.

The San Francisco Chronicle did a piece by sending a reporter to Mexico, who spent 3 days on the road with a Mexican long-haul trucker. I thought it would be interesting to discuss what happened with that Mexican long-haul trucker. It was described in a rather interesting and useful piece in the San Francisco Chronicle.

This was a trucker who went from Mexico City to Tijuana. That is the

equivalent of driving from the bottom of Texas to the northern part of North Dakota; it is a very long trip. This driver traveled 3 days, 1,800 miles; and during the 3 days he slept 7 hours. Let me say that again. This person drove 1,800 miles and was awake 21 hours a day. No logbooks. No minimum hours of service. No drug testing. No inspections for safety.

The question is this, for this country: With such a different set of standards as relates to Mexican trucks versus United States trucks, and the Mexican trucking industry versus the United States trucking industry, do you want to drive down an American highway and in your rearview mirror see an 80,000-pound 18-wheeler behind you that may or may not have been inspected, and may or may not have brakes, and may or may not have been driven by somebody driving for 18 hours straight? Is that what you want for you and your family to see in your rearview mirror? Is this just sort of scare nonsense that we talk about? No, not at all.

Look at the difference in standards. We take great care in this country to describe very specific requirements for trucking firms and their drivers in the United States. They must have logbooks to describe how long they have driven and where they have driven. They must have safety inspections. They must take drug tests. They must have safety inspections on the equipment. There are minimum hours of service. There are a whole series of requirements they must meet. Why? Because in this country we decided long ago that if we are going to share our highways—and we must—with this very important part of our transportation system—trucks—then we want to be sure that some 2-door compact car sharing that highway with an 18-wheeler carrying 80,000 pounds—we want to make sure that safety is a pre-eminent condition in this country. So we established regulations. Some say all regulations are bad. I don't believe that. I think some regulations are critically necessary—for safe food, healthy drinking water, safe highways. On the issue of safe highways, we decided long ago with respect to our trucking industry what kind of requirements they must meet, and we have the inspectors, we have the investigators, we have the entire system in place.

This book is the "Federal Motor Carrier Safety Regulations," January 1, 1999, last revised. This is from the Department of Transportation. This rather large, imposing book is full of regulations. Why? It is to provide for public safety on America's roads. Now if that is what we do in this country, what happens in Mexico? Nothing equivalent to this happens in Mexico. Some say: Well, you know what you are doing. NAFTA was a trade agreement between the United States, Mexico, and Canada,

and you are coming to the floor only talking about Mexico. Why not Canada?

The reason is obvious. Canada has a rather similar economy to ours. They have similar trucking regulations and safety requirements to ours, but there is nothing that is remotely similar with respect to Mexico. So we must, it seems to me, be concerned about the lifting of this 20-mile limit of Mexican long-haul trucks coming into this country. President Bush indicates he wants to do that on January 1. I disagree. The authors of the Transportation appropriations bill have a provision in this bill that says to the President: You can only do this under certain circumstances and under certain certifications. I happen to think that is a step in the right direction. I would much prefer, however, that we simply shut off funds for this purpose in the coming fiscal year. I have seen people certify anything—Republican and Democratic administrations. They have certified many things. If we say you must certify with respect to drugs in Mexico, they do it. If we say you must certify that El Salvador, in the 1980s, was responsible for human rights violations, they certify it.

I am worried about anything that requires anybody to certify because I think there are people here who will certify to almost anything, who will sign a blank sheet of paper. We are nowhere near ready to allow Mexican long-haul trucks into this country. We had a hearing in the Commerce Committee last week. I am a member, and I sat there all morning. I inquired of the witnesses. Some of the witnesses were the Secretary of Transportation, the inspector general, the head of the Teamsters Union, and so many others. I inquired of those witnesses, and the one conclusion with which I think everyone came away from that hearing is that there isn't a ghost of a chance of this country being ready to allow Mexican long-haul trucks into this country without compromising basic safety on American roads.

Let me cite some examples. This is the inspector general report of the Department of Transportation. He talks about the capability of inspecting Mexican trucks coming into this country. I think we have 27 border crossings. Only two of those border crossings have full-time inspectors 24 hours a day. So out of all the border crossings that would allow Mexican trucks to come in, only two have inspectors 24 hours a day. At 20 of the crossings, the inspectors who were there—and there are only a few of them—didn't have dedicated phone lines to access any databases so they could validate a simple thing like a commercial driver's license. At 19 of the locations, the inspectors had space to inspect 1 or 2 trucks at a time. At 14 of the locations, inspectors had 1 or 2 spaces to park vehicles placed out of service.

The inspector general talked to us about having to turn Mexican trucks back. He said: You know, we have a problem if we don't have a place to park them. I said: Why can't you turn them around? He said: For example, we have a Mexican truck come to the border and it is inspected—incidentally, 2 percent are inspected, so most of them are never inspected—but we inspect it. I said: Why can't you turn it back? He said: No, we have to park it. I said: Why? He said: Because it had no brakes. So we have an 18-wheel truck, with no brakes, trying to get into the United States, but they can't turn it back to Mexico because it has no brakes. To the extent that they have insurance, they buy 1 day of insurance.

So, look, the testimony by the Secretary of Transportation, the inspector general, and others demonstrates clearly that we are nowhere near being ready to allow Mexican long-haul trucks into this country.

This IG's report is a fascinating document that I suggest all of my colleagues read. Thirty-six percent of the Mexican trucks are turned back for serious safety violations—serious violations—and most of the trucks are not inspected at all. The implication is that we will somehow have the capability on January 1 to have a rigorous inspection and compliance program with respect to these Mexican trucks. There is nothing like that that is capable of being done between now and January 1. That won't be done between now and 2 years from now, in my judgment.

The only way you can possibly do this is if you have enough inspectors at the border and compliance officers to go down and actually make onsite compliance inspections of the Mexican trucking firms. There aren't anywhere near the resources to do that. Even the resources requested by the administration in this year's budget come up short of doing what they say they will or must do in order to be ready for January 1. They talked about the number of inspectors they would need—139—and then the IG said, by the way, that is the minimum number, that it would actually be more than that. The administration requested that number, and they came up 40 inspectors short because they are using the number twice for inspectors and compliance officers.

The point is that none of this adds up. It is fuzzy math, fuzzy policy. It is plain bad policy, in my judgment, to suggest we are anywhere near the time when we should allow Mexican long-haul trucks into this country.

The hearing we held last week persuaded me that we need to take aggressive and bold action. I am going to file an amendment—I do not know at this moment whether I will call it up—I am going to file an amendment this morning that will allow the Senate to vote on the House language.

The House language says simply: There shall be no funding allowed for the processing of applications for these trucks or licenses for these trucks to exceed the 20-mile limit in the coming fiscal year.

Is that going to change anything? No, because there is not a ghost of a chance of anyone being able to comply or to certify that we have the inspectors or the ability to allow these trucks into the country in the first place and still maintain safety on America's roads.

The fact is, even with the 20-mile limit—on this chart the States outlined in red are where Mexican trucks have been seen and Mexican truck-drivers stopped by law enforcement authorities. These are just the ones that have been stopped. Yes, it includes North Dakota.

I am constrained to say, as bad as this trade agreement was which hurts us on the northern end by allowing unfairly subsidized Canadian grain to come into this country, that what we will have now is the perverse circumstance, perhaps, of unsafe Mexican trucks hauling subsidized Canadian grain to American cities. Talk about a hood ornament for foolishness, that is it.

The States in red are where we have already seen Mexican trucks moving into this country, in violation of the law, I might add. The administration's proposal is to on January 1 open it up completely.

The DOT Office of Inspector General mentioned 36 percent of the Mexican trucks that were inspected were placed out of service. In fact, it said something more than that; it said serious safety violations. I mentioned one example of why they could not move the truck back into Mexico. They had to park it because it had no brakes.

A 1998 estimate was that 139 inspectors were needed. That is a conservative number. That number is based on conditions in 1998 and did not account for changes, such as expanded hours of operation and growth in commercial traffic.

They are 40 short of this number, but even that number, the IG says, is short of what is needed. Currently, the only permanent inspection facilities at the United States-Mexico border are the State facilities, two of them in California. Excluding those two crossings, they observed the following conditions: At 20 crossings, inspectors did not have dedicated phone lines. I mentioned that. At 19 crossings, they had the capability to inspect only 1 or 2 trucks.

All of us understand, we are talking about a Presidential veto. God forbid the President should veto this bill. It does not matter to me if he vetoes this bill. What matters to me is that we do good public policy that ensures the safety of the American people. That is all I am interested in.

The first and most important step we should take in the Senate, in my judg-

ment, is to take the House language, put it in the Senate bill, and go to conference, and the House and Senate will have said: We will not allow funds to be used in this fiscal year to allow Mexican trucks to come into this country beyond the 20-mile border because it will jeopardize the safety of American highways.

Senator MURRAY and Senator SHELBY have put a provision in their bill, and if the provision works as it is written, I expect it will do the same as I propose to do with the House language.

My great fear is we have too many people in this town who will certify to almost anything, and an administration that wants to open it up on January 1, very likely, unless we prohibit the expenditure of funds to do so, will find a way to open that border. In my judgment, that will jeopardize safety on American highways.

I will conclude where I started. Some of the best evidence is anecdotal evidence. We have some information about accidents and the condition of Mexican trucks and the fact that there is very little done with respect to logbooks. In fact, Mexico requires logbooks, but they do not enforce it.

It is like when the maquiladora plants hosted American companies that wanted to build manufacturing plants to manufacture south of the border, and they said: Well, gosh, Mexico has very strict environmental laws with respect to polluting the air and water. Sure they do. They just do not enforce them. So what if they have the laws? It is totally irrelevant. You can have all kinds of laws on the books; if you have a blind eye to the enforcement, it is totally irrelevant.

With respect to this issue of logbooks and other things, some say: Mexico requires logbooks. Yes, they sure do; and nobody has them, and nobody cares.

I started with the anecdotal piece about the San Francisco Chronicle, and I will finish with that.

It is not, I am told, out of the ordinary for long-haul trucks in Mexico to be driven by Mexican drivers who are paid \$7 a day, driving 15, 20—in this case, nearly 21—hours a day for 3- or 4-day trips.

The San Francisco Chronicle talked about the truckdriver who left Mexico City and drove to Tijuana. He drove 3 days. That driver slept 7 hours in 3 days, making \$7 a day, driving a truck that would not have passed inspection in this country with a cracked windshield. No logbook, no drug inspection, no mandatory safety inspection on the vehicle.

Is that really what we want to allow to come into our country at this point? I think not. It has nothing to do with who it is. It has everything to do with whether it is safe.

The answer is, until the country of Mexico not only has regulations and standards that we can count on and

rely on and that are enforced, and enforced rigorously, we ought to decide we will not let safety on America's highways be jeopardized, and the way to do that is, in my judgment, to pass the House prohibition on funding.

As I indicated, I am filing the amendment this morning. I am obviously going to continue to talk to colleagues. I share the same concern and interests that my two colleagues do. I think the language they have written is good language. I just believe in the end we will have people certifying to anything and the administration will find a way to allow these trucks to come in on January 1. That will be a giant step in the wrong direction for safety on America's highways.

We ought not ever engage in trade agreements that would in any way force us or squeeze us to compromise safety in this country. It does not matter whether it is food safety or highway safety, nothing in trade agreements ought to require us to diminish our standards that we have established for people in this country. That is why I am so concerned about this issue.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized.

Mr. CAMPBELL. Madam President, after listening to my colleague from North Dakota, I could say ditto and let it go at that because I certainly agree with his comments. I am inclined to tell the Senator from North Dakota, if he offers the amendment mirroring the House language, I would probably support that.

I want to speak today in support of Chairman MURRAY's language in the fiscal year 2002 Transportation appropriations bill, and I want to speak in favor of this language for a couple of minutes.

First and foremost, the safety of every American who travels on our streets and highways must not be compromised by vehicles that are unsafe by American standards, despite trade relations.

All of us in the Senate make our decisions based on a personal frame of reference, and certainly my frame of reference includes the 6 years I drove as a professional driver while I was putting myself through college years ago. In fact, I am still probably the only Member of the Senate who has a commercial driver's license and, in fact, still drives, more as an escape from the tediums of the Senate work than anything else, but I still get out on the road pretty regularly. I speak to drivers and spend a great deal of time at truckstops and places where they frequent, listening to their concerns.

I know the safety requirements that each American driver must adhere to are very complete. I am concerned that without the language provided in this bill and report, Mexican drivers will

not be subject to the same standards. I am sure there are some very skilled and talented Mexican drivers, and we have to be very careful to make sure we do not do a blanket indictment on the Mexican trucking industry. My comments are certainly not meant to do that.

The standards between the equipment and the monitoring between drivers in the United States and Mexico, unlike the drivers of the United States and Canada, are worlds apart. This is an enormous safety issue, as my colleagues have already mentioned, and I do not think we should ignore this for a minute.

Mile for mile, American truckdrivers are much safer than drivers of automobiles. The single drivers are averaging about 5,000 miles a week in the trucks and, if they are team drivers, probably 10,000 miles a week. They have to be safe drivers.

Certainly those who have driven or have been around accidents involving trucks know that many of the trucks from Mexico are not in good repair. The average fleet of the American trucking industry, I am told, is 3 to 6 years old. These are figures I quote from the American Trucker's Association. The average Mexican fleet is 15 years old. When averaging 100,000 miles a year, it does not take much math to figure there is a huge difference in upkeep and maintenance on a truck traveling that much more over a period of 15 years. Wear and tear on the truck is huge.

In a truck-auto accident, obviously, the trucker will not get hurt—80,000 pounds versus 3,000 pounds. The law of physics says whoever is in the smaller vehicle will receive the most damage. Passenger vehicles driving alongside a truck face serious safety hazards if the truck is not in good repair. My concerns regard the unsafe trucks that are not being regulated.

American truckers, to be qualified for CDL, have to pass eight written tests, several driving tests, a physical every 2 years, and ongoing training in the company, which is in turn federally regulated. It is very easy to lose their license for any small infraction dealing with alcohol, drugs, or unsafe driving. There is almost zero tolerance allowed to remain a professional driver.

To my knowledge, Mexican drivers are not restricted to hours of service. This has been mentioned before. The U.S. truckdrivers are restricted. Each American truckdriver has specific regulations as to how long he is allowed to drive, how many hours he can be at the wheel, and he has to keep meticulous records in a logbook dealing with every single minute he is behind that wheel. The record is checked on a regular basis, and significant fines are levied to both the drivers and the owners of the vehicles who violate the service regulations.

By the way, I am holding one of the books of regulations, 1,112 pages long. There are seven of these books. This is title 49, section 171–180, and it is one of the sections dealing with transportation. This simply deals with transportation of hazardous materials. All American shippers, all carriers, and all drivers have to comply with the rules. Who in the heck will monitor compliance for the Mexican trucks? I can read English and speak it pretty well, but one must read some of the sections three or four times to understand the nuances of the regulations. I defy anybody to tell me the trucks coming from Mexico will comply with the letter of the law and the regulations as American drivers do.

The Mexican truck drivers are under no safety regulations, no incentive to adhere to our regulations, as I understand it. I raised these concerns as the Senator from North Dakota did when we were discussing the NAFTA treaty several years ago. We simply convinced very few people there were real dangers and of the unintended consequences of both fast track and the NAFTA agreement. Of course, it was shooed in. We are going to visit another agreement very shortly. I hope most of my colleagues in the Senate recognize sometimes in this pellmell rush to increase trade we have to revisit issues because we are not at all supportive at a later date.

The Mexico-based registered trucks are authorized to operate in a 20-mile border, as Senator DORGAN mentioned. This was provided under the original NAFTA agreement. They have been spotted, however, in 30 States, which I think is a clear violation of that trade agreement. Certainly it has not been addressed. Common sense demands the matter be addressed before we allow more uninspected trucks to enter our country.

Opponents of the Murray language point out the outstanding fine the U.S. must pay for violating truck agreements under NAFTA. I would like to know what the penalties have been for the Mexican trucks we have found all over the United States. This isn't an issue of discrimination or adherence to trade agreements, although they would like to reduce it to such, but an issue of safety for every American who travels the roads of America and an issue of fairness. A loaded tractor-trailer operating at highway speed is especially dangerous if the vehicle has worn brakes, bad steering, or any weaknesses in the integrity of the truck. We demand very strict safety guidelines, but clearly rollover risks are more acute when a truck is involved in an accident. A loaded semitruck of 80,000 pounds does not stop like a family sedan, but takes up to 10 times longer to stop.

I refer to an article in *Land Line Magazine*, and I ask unanimous consent it be printed in the *RECORD* at the conclusion of my remarks.

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

(See exhibit No. 1.)

Mr. CAMPBELL. This article in *Land Line Magazine* reports four members of the House Subcommittee on Highways and Transit, headed by subcommittee chairman THOMAS PETRI, and the ranking member, Representative ROBERT BORSKI, recently conducted a fact-finding mission on border inspection stations. The purpose of the mission was to view the station and consider the possibility of opening new ones. The members were impressed the way the inspection stations of California, which have about a 25 percent out-of-service rate for the trucks from Mexico, similar to the ones in the United States. In other words, about one-fourth of the trucks, whether American or Mexican trucks, did not comply with the American safety standards. When it came to Texas, the results were vastly different because Texas doesn't have State facilities for inspecting. Clearly, if a trucker knows he will be stopped at one inspection system, he will go to the area of least resistance.

I refer to a paragraph in that article, quoting Representative BORSKI:

"Texas' inspection system is virtually nonexistent . . . Trucks pour over the border there. They may be safe and may be not."

"Texas has no infrastructure to look at trucks," he added. "During our visit, we were shown two parking spaces for inspecting trucks two at a time with 4,000 trucks per day at that crossing. The out-of-service rate was staggering. Texas Department of Public Safety Major Coy Clanton told us if they looked at seven or eight trucks, they would take five out of service for significant safety violations. I think the key is that a truck that isn't inspected will be neglected. I think that's the biggest danger."

I hope, when asked to vote for fast track, that we recognize the danger of simply reducing ourselves to rubber stamps for any administration. I voted against NAFTA, as did my colleague from North Dakota. I recognize that is the law now. We have to abide by the agreement.

However, let me also refer to some of the comments made by Jim Hoffa, the general president of the International Brotherhood of Teamsters, that he provided in a hearing before the Senate Committee on Commerce, Science, and Transportation on July 18:

. . . the United States is under no legal obligation to implement the findings of the NAFTA panel. Under U.S. law, the health, safety and welfare of the U.S. citizens is paramount and to the extent NAFTA conflicts with any U.S. law dealing with health, environment and motor carrier/worker safety, U.S. law prevails. Even under the terms of NAFTA, the U.S. is entitled to disregard the panel's recommendation, and simply allow Mexico to take equivalent reciprocal measures or negotiate compensation or a

new grant of some trade benefits to Mexico. Indeed, the United States has not traditionally allowed foreign countries or international bureaucracies to dictate its domestic policy, particularly where the health and safety of U.S. citizens is concerned . . .

Some would say that Mr. Hoffa, as the president of the Teamsters, may be somewhat of a protectionist. He has every right to be. By some estimates, the United States has lost 800,000 manufacturing jobs since NAFTA was implemented. Certainly the loss of jobs, although secondary to the safety of our people, is important. I think the language of this bill is vital to the health and safety of all of us. I urge my colleagues to support the Murray provisions of this bill.

I challenge the opponents of this position to explain why we should allow 80,000 pound accidents waiting to happen to drive the same roads our families drive.

I yield the floor.

EXHIBIT NO. 1

[From *Land Line*, July 2001]

CONGRESS FACT-FINDING COMMITTEE VISITS  
U.S.-MEXICO BORDER INSPECTION STATIONS  
(By René Tankersley)

Four members of the House Subcommittee on Highways and Transit recently visited border inspection stations in San Diego, CA, and Laredo, TX, as part of a fact-finding venture to determine the safety of Mexican trucks crossing into the United States.

Subcommittee Chairman Rep. Thomas Petri (R-WI), ranking minority member Rep. Robert A. Borski (D-PA), Rep. Bob Filner (D-CA) and Rep. Tim Holden (D-PA) toured the border inspection stations May 19-20.

*Land Line* talked with Reps. Petri and Borski about what they saw and how it affected their outlook on the possible opening of the U.S.-Mexico border. Both Petri and Borski seemed thoroughly impressed with California's state-owned inspection station at the border between San Diego and Tijuana, Mexico. The state-operated station inspects trucks and truckdrivers for safety and compliance with state motor vehicle laws.

"California's very comprehensive truck inspection program applies to all trucks, Mexican and American," Petri said. "Trucks must have an inspection sticker, which is renewed every three months at the border station. If inspectors find problems with the equipment, the drivers either fix the problem there or receive an order, and sometimes a fine, to fix the problem and be re-inspected on their next trip to the border station."

Borski agreed, and added that the out-of-service rate at the California station is average. "California's inspection station has about a 25 percent out-of-service rate for trucks from Mexico, which is similar to the rate for U.S. trucks," Borski said.

The party of four also visited the federal border inspection station in San Diego. Here federal inspectors examine trucks for contraband, both illegal aliens and drugs, using their new laser x-ray machines x-ray the entire truck.

The federal government has about 15 contraband stations in Laredo due to the larger volume of goods coming through this border by truck and rail. The congressional party visited Laredo's newest facility, which inspects and x-rays boxcars and trailer piggy-back units.

With the overwhelming workload at the U.S. Customs contraband stations, Borski is

concerned with how opening the border will affect the officials there. "Government officials working down there are overwhelmed already," Borski said.

Texas does not have a state facility at the border crossing to inspect trucks for compliance with Texas motor carrier laws.

"Texas' inspection system is virtually nonexistent," Borski said. "Trucks pour over the border there. They may be safe and may be not."

"Texas has no infrastructure to look at trucks," he added. "During our visit, we were shown two parking spaces for inspecting trucks two at a time with 4,000 trucks per day at that crossing. The out-of-service rate was staggering. Texas Department of Public Safety Major Coy Clanton told us if they looked at seven or eight trucks, they would take five out of service for significant safety violations. I think the key is that a truck that isn't inspected will be neglected. I think that's the biggest danger."

Petri believes the Bush administration has planned for the needed improvements to the truck inspection system.

"President Bush in his budget provided for \$100 million to improve inspections at the U.S.-Mexico border," Petri said. "We think they're in the process of replicating California's inspection station in Texas. It will be like anything else. If people know, the word goes out loud and clear that they are going to be inspected, or going to be fined or sent back, they'll get their equipment up to standard very quickly."

Borski agreed the California system should be replicated, but is concerned with the length of time it would take to build such a facility.

"They should set up a system like California's facility, or we shouldn't open the border," Borski said. "It will take at least 18 months to build an inspection station."

"In California the border is narrow, but in Texas there's maybe 15 crossings with virtually no inspection," Borski explained. "I don't think the border should be open in Texas any farther than that 20-mile radius until we get a better inspection system."

Borski and 30 other representatives are cosponsoring a resolution to urge the president not to open the border until safety inspection concerns are adequately addressed. "You can be for NAFTA and still insist on trucks being inspected," Borski said. "It's a safety question, not a trade question."

TWO BILLS WOULD BAR MEXICAN TRUCKS UNTIL  
THEY ARE SAFE

The Owner-Operator Independent Drivers Association is supporting legislation currently moving through both the U.S. Senate and House targeting truck safety under NAFTA.

House Resolution 152, introduced May 24 by U.S. Rep. James Oberstar (D-MN) and Rep. Jack Quinn (R-NY), would delay granting Mexican trucks authority to operate in the U.S. under NAFTA until a prescribed comprehensive plan to ensure their safety is in place. Thirty-one additional lawmakers are listed as original cosponsors of the Oberstar resolution.

Sen. Byron Dorgan's (D-ND) bill, introduced May 25, would halt cross-border operations until the Mexican trucks can meet safety standards. SB965 is cosponsored by Sen. Harry Reid (D-NV).

"Only about 1 percent of Mexican trucks entering the United States are inspected by the United States at the border, but 36 percent of those that are inspected are turned back for serious safety violations," Sen. Dorgan says. "Mexico does not have the same

safety standards we have in the United States," he said as he introduced the bill. "There are no minimum safety standards for trucks or equipment, no limit on the hours a driver can stay on the road, no drug testing. These trucks will put people on America's highways at serious risk. The American people don't want to drive down the highway and find they are alongside a severely overloaded truck with someone in the driver seat who may have been on the road for 20 hours or more."

Dorgan said ample evidence from California, Nevada and other states documents a significant number of Mexican trucks are regularly turned back at the U.S. Mexico border for serious safety violations, even under the current rules.

"Every day, every hour, these unsafe trucks are coming across our border, and that will only increase if the Administration plans are allowed to go forward," he said. Even the Department of Transportation acknowledges its enforcement program, which is seriously under-staffed, cannot assure the safety of Mexican trucks entering the United States.

"The serious shortcomings of trucks from Mexico is a problem that too many lawmakers are ignoring," said OOIDA President Jim Johnston. "There is a great deal of opposition and concern among many people across the country for the current plan to open the border at the end of this year without appropriate safety measures in place."

OOIDA maintains that, while the Federal Motor Carrier Safety Administration has proposed several rules it claims will allow verification of Mexican carrier compliance with U.S. safety rules, the proposals only touch upon a fraction of the issues raised by the opening of the border. OOIDA points out other issues that will demand increased government supervision will be in the areas of Customs and Immigration, and compliance with all federal and state licensing, registration, permitting, environmental and user fee and tax requirements as every U.S. truck is required to do. Also left unanswered is how to process a Mexican truck or driver in violation of NAFTA trade rules or our safety standards.

"American truckdrivers must comply with enormous numbers of safety rules and regulations to operate legally on our highways," OOIDA's Johnston says. "These include a stringent physical examination and drug and alcohol testing of drivers, truck weight limits, and hours-of-service rules. Mexico does not impose the same rules on their trucks and drivers. It makes no sense, is reckless, and is completely unfair to create exceptions to these rules for Mexican carriers. That's what we will be effectively doing if we open the border before Mexico imposes equivalent rules and we are prepared to ensure their carrier's compliance with them."

**OFFICIAL NAFTA PLAN NEARING COMPLETION: DEMOCRATIC SENATORS ASK BUSH TO HOLD OFF ON MEXICAN TRUCKS**

The Federal Motor Carrier Safety Administration says the official North American Free Trade Agreement implementation plan is now nearing completion. FMCSA spokesman David Longo expects it to be available in mid-June. Meanwhile, more Washington lawmakers are voicing concerns about cross-border trucking. Fearing a compromise of safe roads, 10 Democratic senators have made the latest news, asking that the plan to allow Mexican trucks full access to U.S. highways be reconsidered.

In a letter sent June 11, the senators assured the president they are supporters of

NAFTA, but said that granting access to U.S. roads could "seriously jeopardize highway safety, road conditions and environmental quality."

A NAFTA arbitration panel ruled in February that the United States was violating the treaty by not opening the border per provisions of the treaty, and the Bush administration launched a plan to comply. The Bush administration and transportation officials currently are establishing rules for cross-border trucking and want them finished in time to let the trucks operate in the United States before the end of the year. The public has until July 2 to comment on the proposal that would require all Mexican trucks to apply for permission to operate in the United States. A safety audit would be conducted within 18 months, but the senators are concerned about the interim.

The letter was signed by Sens. John Kerry (D-MA), Max Baucus (D-MT), Jeff Bingaman (D-NM), Tom Harkin (D-IA), Tom Daschle (D-SD), Ron Wyden (D-OR), Ted Kennedy (D-MA), Evan Bayh (D-IN), Joseph Lieberman (D-CT) and Richard Durbin (D-IL).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

Mrs. BOXER. Madam President, I rise in support of the Murray amendment that is pending, as well as the underlying bill. I think Senator MURRAY deserves to be commended because she has taken on what is a huge safety issue for the people of our country, and she has done it in a way that has been open and transparent and she has listened.

I think with the additional amendment that she has at the desk right now—which really, in a sense, adopts a procedure we are using in California to inspect trucks to give them a decal so we know they are safe—adds immeasurably to her language that is already in the underlying bill.

I think the subject of NAFTA trucks is a very big issue because it isn't a theoretical issue anymore. It is a question of whether these trucks are safe. The Commerce Committee just held a hearing on the coming of the NAFTA trucks through the Mexican border.

I am a member of the Commerce Committee, and I will tell you right now, from a lot of hearings, I am relieved that the problem I am looking at is actually not as bad as I thought. In this case, I was far from relieved. It is much more worrisome, after having heard the testimony of Cabinet Secretary Mineta and the inspector general of the Department of Transportation.

The issue of the safety of what I call the NAFTA trucks is not about free trade, nor is it about protectionism.

I know that Senator MURRAY, who is shepherding this bill through and who

is now presiding over the Chamber, is a tremendous advocate of free trade. I think back. I can't truly think of a time when she didn't come down on that side. She is taking the leadership on the safety question. That is really what it is. That is the bottom line.

Why should the Senator from California be concerned about this border truck issue? Clearly, my State has about 23 percent of all the NAFTA truck traffic. If it turns out that the trucks coming in are not safe, it is going to have a devastating effect on the people of California. That is something that is of great concern to me.

In 1999, there were 4.5 million commercial motor vehicles crossing at the California-Mexico border. It is estimated that most of these crosses were made by 80,000 trucks. The opening of the border is expected to increase the number of NAFTA trucks. For example, we have 190 applications awaiting full access to our highways at the DOT. Unless our safety standards are improved and—this is really the big word—"enforced," the result will be that Californians, whether driving to work, or a soccer mom driving her kids, or whoever happens to be in that motor vehicle, will be next to a truck that may not meet our standards or that may have a driver who is exhausted. I will explain why that is apt to be the case.

If I went along with the Bush administration, I would be putting those people at risk.

There is nothing more sacred to an elected official than protecting the health and safety of the people he or she represents.

This issue is very important to me. I want to show you a chart, which I will summarize. It will be very hard for the Presiding Officer to identify it from there. I will explain why the issue of NAFTA trucks is so important.

When former Congressman Mineta, now Secretary Mineta, was before the Commerce Committee, he said: Don't worry, Senator. We are going to enforce our own laws on the Mexican trucks and on the NAFTA trucks as they come through.

Then the logical question is, How many of these trucks have been inspected to date by the Federal Government? The answer is 2 percent of all the trucks that are coming in are being inspected.

Then you say: All right. In those inspections, how many of those trucks are passing the safety inspections?

The answer is 23 percent.

Let me go through that again.

The DOT is only inspecting 2 percent of the NAFTA trucks that are coming in across the Mexican border. Out of that, 23 percent failed inspection. It could be assumed that is the average that failed the inspection. Imagine how many trucks we would catch if we inspected 100 percent. How many people

are in danger because we are not inspecting 100 percent? Therefore, those trucks are on the road.

Secretary Mineta says: Don't worry, be happy. We are going to put the American law into place on these inspections. Yet we don't have the inspectors. Oh, they will have them by January, they say.

I don't believe it. It isn't going to happen. As a matter of fact, I asked: What would happen if California then said in January we are tired of spending millions of dollars on our own inspections, and we are going to allow the Federal Government to inspect?

The inspector general said: We would be in big trouble.

Talk about an unfunded mandate, I think California is spending \$30 million or \$35 million on an inspection regime that is so good, by the way, that Senator MURRAY takes the decal plan. That is the amendment that is pending. But even with that, how many are we inspecting in California? Also, about 2 percent. We are only inspecting 2 percent of the trucks in California. Everyone says California is doing the best.

It is a harrowing issue for all of us. Those trucks are going to wind up all over the country—in Illinois and on the east coast. They are already showing up there, by the way. They are breaking the law. They are only supposed to go 20 miles from the border. But they are breaking through, and they are showing up.

How about this for one question—it was actually Senator ALLEN who asked the question of the inspector general: Why don't we just have those trucks turn around and go back to Mexico when they don't pass the inspection?

Do you know what the inspector general said? Because they have no brakes. They have no brakes.

Let me tell you why we have a problem. We have not checked these trucks as they come in. We are inspecting 2 percent. We can't get ready to inspect all the trucks by January 1.

Now I have a better chart to show you. It is the same thing but a little bit bigger. This is much better.

Here is our problem. In the United States, a truckdriver is allowed to drive up to 10 consecutive hours, work up to 15 consecutive hours with a mandatory 8 hours of rest, and cannot drive more than 70 hours during each 8-day period.

Some people think that schedule is too harsh. There are issues in our own country about driving up to 10 hours consecutively, working up to 15 consecutive hours with the mandatory 8 hours of rest, and not driving more than 70 hours during each 8-day period. There are some in our country, including a lot of the safety experts, who say that we are too weak; that our drivers are too tired; and that there are too many accidents. Yet we are about to

allow Mexican trucks in because we can't enforce any of this at the border when they have none of these restrictions.

Let me repeat. There are no restrictions on Mexican drivers in terms of how many hours they have to work and on how many consecutive hours. There is no requirement of rest and no restrictions.

If you are only inspecting 2 percent of the trucks at the border, you apply this, and you find someone who has been driving, say, for 20 hours straight, there is really nothing you can do if that individual just gets right through the border.

We have random drug tests for our drivers. In Mexico, they do not have random drug tests.

Medical conditions and qualifications: Absolutely, in the United States, if you have certain medical conditions, you cannot get your license. In Mexico, there are no such qualifications.

The driving age for interstate driving in America is 21. In Mexico, it is 18.

You are going to have an 18-year-old driving big-rig trucks and not getting any rest, who was never subjected to a random drug test, who might have a medical condition, and who is never disqualified. And Secretary Mineta says: Don't worry, be happy; We will catch them at the border. But we do not because we do not have enough inspectors. That is why Senator MURRAY's language in the bill is so important because she is going to say: Look, we are not putting an arbitrary date on you, but you are not going to do this. You are not going to have this situation until you are ready to inspect all of these vehicles.

Let's look at the next chart.

Let's compare truck safety regulations. In the United States, there are comprehensive standards for components such as antilock brakes, underride guards, night visibility, and front brakes.

In Mexico, it is not as strong a test; there are less vigorous tests. For example, front brakes are not required. The maximum weight for a truck in the United States is 80,000 pounds; in Mexico it is 135,000 pounds.

For any of you who know the issue of what happens when these heavy trucks are on our roads in terms of what happens to our roads, we even have troubles today because people are saying our trucks are too heavy. In Mexico, it is a 135,000-pound limit.

Hazardous material rules: In America: strict standards, training, licensure, and an inspection regime. In Mexico it is very lax; there are fewer identified chemicals and substances and fewer licensure requirements.

Roadside inspections—you see those stops where trucks have to pull to the side and get inspected—we have them in the United States. They do not have them in Mexico.

Why is it important we show these differences? Because people say: We do not have problems with Canada. The thing is, in Canada they have regulations like ours. So inspecting all those trucks is not the same problem. When you have free trade between countries that have different rules and regulations as to the safety of the trucks, the safety of the drivers, it is a different situation.

So the reason we have shown all this to you—and I will again show you the first chart—is because we have drivers coming in our country in these NAFTA trucks who may be driving—how many hours consecutively in one case?—up to 20 hours without a rest. They were not subjected to a random drug test in their country. They slip through the border because we are only inspecting 2 percent of the vehicles. And they could have a medical problem from which, if they had it in this country, they would have been disqualified. They could be 18 years old.

I ask unanimous consent to have printed in the RECORD an article that appeared in the San Francisco Chronicle.

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

[From the San Francisco Chronicle, Mar. 4, 2001]

MEXICO'S TRUCKS ON HORIZON: LONG-DISTANCE HAULERS ARE HEADED INTO U.S. ONCE BUSH OPENS BORDERS

[By Robert Collier]

ALTAR DESERT, MEXICO.—Editor's Note: This week, the Bush administration is required by NAFTA to announce that Mexican long-haul trucks will be allowed onto U.S. highways—where they have long been banned over concerns about safety—rather than stopping at the border. The Chronicle sent a team to get the inside story before the trucks start to roll.

It was sometime way after midnight in the middle of nowhere, and a giddy Manuel Marquez was at the wheel of 20 tons of hurtling, U.S.-bound merchandise.

The lights of oncoming trucks flared into a blur as they whooshed past on the narrow, two-lane highway, mere inches from the left mirror of his truck. Also gone in a blur were Marquez's past two days, a nearly Olympic ordeal of driving with barely a few hours of sleep.

"Ayy, Mexico!" Marquez exclaimed as he slammed on the brakes around a hilly curve, steering around another truck that had stopped in the middle of the lane, its hood up and its driver nonchalantly smoking a cigarette. "We have so much talent to share with the Americans—and so much craziness."

Several hours ahead in the desert darkness was the border, the end of Marquez's 1,800-mile run. At Tijuana, he would deliver his cargo, wait for another load, then head back south.

But soon, Marquez and other Mexican truckers will be able to cross the border instead of turning around. Their feats of long-distance stamina—and, critics fear, endangerment of public safety—are coming to a California freeway near you.

Later this week, the Bush administration is expected to announce that it will open

America's highways to Mexican long-haul trucks, thus ending a long fight by U.S. truckers and highway safety advocates to keep them out.

Under limitations imposed by the United States since 1982, Mexican vehicles are allowed passage only within a narrow border commercial zone, where they must transfer their cargo to U.S.-based long-haul trucks and drivers.

The lifting of the ban—ordered last month by an arbitration panel of the North American Free Trade Agreement—has been at the center of one of the most high-decibel issues in the U.S.-Mexico trade relationship.

Will the end of the ban endanger American motorists by bringing thousands of potentially unsafe Mexican trucks to U.S. roads? Or will it reduce the costs of cross-border trade and end U.S. protectionism with no increase in accidents?

Two weeks ago, as the controversy grew, Marquez's employer, Transportes Castores, allowed a Chronicle reporter and photographer to join him on a typical run from Mexico City to the border.

The three-day, 1,800-mile journey offered a window into a part of Mexico that few Americans ever see—the life of Mexican truckers, a resourceful, long-suffering breed who, from all indications, do not deserve their pariah status north of the border.

But critics of the border opening would also find proof of their concerns about safety:

—American inspectors at the border are badly undermanned and will be hard-pressed to inspect more than a fraction of the incoming Mexican trucks.

California—which has a much more rigorous truck inspection program than Arizona, New Mexico or Texas, the other border states—gave full inspections to only 2 percent of the 920,000 short-haul trucks allowed to enter from Mexico last year.

Critics say the four states will be overwhelmed by the influx of Mexican long-haul trucks, which are expected to nearly double the current volume of truck traffic at the border.

—Most long-distance Mexican trucks are relatively modern, but maintenance is erratic.

Marquez's truck, for example, was a sleek, 6-month-old, Mexican-made Kenworth, equal to most trucks north of the border. But his windshield was cracked—a safety violation that would earn him a ticket in the United States but had been ignored by his company since it occurred two months ago.

A recent report by the U.S. Transportation Department said 35 percent of Mexican trucks that entered the United States last year were ordered off the road by inspectors for safety violations such as faulty brakes and lights.

—Mexico's domestic truck-safety regulation is extremely lax. Mexico has no functioning truck weigh stations, and Marquez said federal police appear to have abandoned a program of random highway inspections that was inaugurated with much fanfare last fall.

—Almost all Mexican long-haul drivers are forced to work dangerously long hours.

Marquez was a skillful driver, with lightning reflexes honed by road conditions that would make U.S. highways seem like cruise-control paradise. But he was often steering through a thick fog of exhaustion.

In Mexico, no logbooks—required in the United States to keep track of hours and itinerary—are kept. Marquez slept a total of only seven hours during his three-day trip.

"We're just like American trucks, I'm sure," Marquez said with a grin. "We're neither saints nor devils. But we're good drivers, that's for sure, or we'd all be dead."

Although no reliable statistics exist for the Bay Area's trade with Mexico, it is estimated that the region's exports and imports with Mexico total \$6 billion annually. About 90 percent of that amount moves by truck, in ten of thousands of round trips to and from the border.

Under the decades-old border restrictions, long-haul trucks from either side must transfer their loads to short-haul "drayage" truckers, who cross the border and transfer the cargo again to long-haul domestic trucks. The complicated arrangement is costly and time-consuming, making imported goods more expensive for U.S. consumers.

Industry analysts say that after the ban is lifted, most of the two nations' trade will be done by Mexican drivers, who come much cheaper than American truckers because they earn only about one-third the salary and typically drive about 20 hours per day.

Although Mexican truckers would have to obey the U.S. legal limit of 10 hours consecutive driving when in the United States, safety experts worry that northbound drivers will be so sleep-deprived by the time they cross the border that the American limit will be meaningless. Mexican drivers would not, however, be bound by U.S. labor laws, such as the minimum wage.

"Are you going to be able to stay awake?" Marcos Munoz, vice president of Transportes Castores jokingly asked a Chronicle reporter before the trip. "Do you want some pingas?"

The word is slang for uppers, the stimulant pills that are commonly used by Mexican truckers. Marquez, however, needed only a few cups of coffee to stay awake through three straight 21-hour days at the wheel.

Talking with his passengers, chatting on the CB radio with friends, and listening to tapes of 1950s and 1960s ranchera and bolero music, he showed few outward signs of fatigue.

But the 46-year-old Marquez, who has been a trucker for 25 years, admitted that the burden occasionally is too much.

"Don't kid yourself," he said late the third night. "Sometimes, you get so tired, so worn, your head just falls."

U.S. highway safety groups predict an increase in accidents after the border is opened.

"Even now, there aren't enough safety inspectors available for all crossing points," said David Golden, a top official of the National Association of Independent Insurers, the main insurance-industry lobby.

"So we need to make sure that when you're going down Interstate 5 with an 80,000-pound Mexican truck in your rearview mirror and you have to jam on your brakes, that truck doesn't come through your window."

Golden said the Bush administration should delay the opening to Mexican trucks until border facilities are upgraded.

California highway safety advocates concur, saying the California Highway Patrol—which carries out the state's truck inspections—needs to be given more inspectors and larger facilities to check incoming trucks' brakes, lights and other safety functions.

Marquez's trip started at his company's freight yard in Tlalnepantla, an industrial suburb of Mexico City. There, his truck was loaded with a typical variety of cargo—electronic components and handicrafts bound for Los Angeles, and chemicals, printing equipment and industrial parts for Tijuana.

At the compound's gateway was a shrine with statues of the Virgin Mary and Jesus. As he drove past, Marquez crossed himself, then crossed himself again before the small Virgin on his dashboard.

"Just in case, you know," he said. "The devil is always on the loose on these roads."

In fact, Mexican truckers have to brave a wide variety of dangers.

As he drove through the high plateaus of central Mexico, Marquez pointed out where he was hijacked a year ago—held up at gunpoint by robbers who pulled alongside him in another truck. His trailer full of canned tuna—easy to fence, he said—was stolen, along with all his personal belongings.

What's worse, some thieves wear uniforms.

On this trip, the truck had to pass 14 roadblocks, at which police and army soldiers searched the cargo for narcotics. Each time, Marquez stood on tiptoes to watch over their shoulders. He said, "You have to have quick eyes, or they'll take things out of the packages."

Twice, police inspectors asked for bribes—"something for the coffee," they said. Each time, he refused and got away with it.

"You're good luck for me," he told a Chronicle reporter. "They ask for money but then see an American and back off. Normally, I have to pay a lot."

Although the Mexican government has pushed hard to end the border restrictions, the Mexican trucking industry is far from united behind that position. Large trucking companies such as Transportes Castores back the border opening, while small and medium-size ones oppose it.

"We're ready for the United States, and we'll be driving to Los Angeles and San Francisco," said Munoz, the company's vice president.

"Our trucks are modern and can pass the U.S. inspections. Only about 10 companies here could meet the U.S. standards."

The border opening has been roundly opposed by CANACAR, the Mexican national trucking industry association, which says it will result in U.S. firms taking over Mexico's trucking industry.

"The opening will allow giant U.S. truck firms to buy large Mexican firms and crush smaller ones," said Miguel Quintanilla, CANACAR's president. "We're at a disadvantage, and those who benefit will be the multinationals."

Quintanilla said U.S. firms will lower their current costs by replacing their American drivers with Mexicans, yet will use the huge American advantages—superior warehouse and inventory-tracking technology, superior access to financing and huge economies of scale—to drive Mexican companies out of business.

Already, some U.S. trucking giants such as M.S. Carriers, Yellow Corp. and Consolidated Freightways Corp. have invested heavily in Mexico.

"The opening of the border will bring about the consolidation of much of the trucking industry on both sides of the border," said the leading U.S. academic expert on NAFTA trucking issues, James Giermanski, a professor at Belmont Abbey College in Raleigh, N.C.

The largest U.S. firms will pair with large Mexican firms and will dominate U.S.-Mexico traffic, he said.

But Giermanski added that the increase in long-haul cross-border traffic will be slower than either critics or advocates expect, because of language difficulties, Mexico's inadequate insurance coverage and Mexico's time-consuming system of customs brokers.

"All the scare stories you've heard are just ridiculous," he said. "The process will take a long time."

In California, many truckers fear for their jobs. However, Teamsters union officials say they are trying to persuade their members that Marquez and his comrades are not the enemy.

"There will be a very vehement reaction by our members if the border is opened," said Chuck Mack, president of Teamsters Joint Council 7, which has 55,000 members in the Bay Area.

"But we're trying to diminish the animosity that by focusing on the overall problem—how (the opening) will help multinational corporations to exploit drivers on both sides of the border."

Mexican drivers, however, are likely to welcome the multinationals' increased efficiency, which will enable them to earn more by wasting less time waiting for loading and paperwork.

For example, in Mexico City, Marquez had to wait more than four hours for stevedores to load his truck and for clerks to prepare the load's documents—a task that would take perhaps an hour for most U.S. trucking firms.

For drivers, time is money. Marquez's firm pays drivers a percentage of gross freight charges, minus some expenses. His three-day trip would net him about \$300. His average monthly income is about \$1,400—decent money in Mexico, but by no means middle class.

Most Mexican truckers are represented by a union, but it is nearly always ineffectual—what Transportes Castores executives candidly described as a "company union." A few days before this trip, Transportes Castores fired 20 drivers when they protested delays in reimbursement of fuel costs.

But Marquez didn't much like talking about his problems. He preferred to discuss his only child, a 22-year-old daughter who is in her first year of undergraduate medical school in Mexico City.

Along with paternal pride was sadness. "Don't congratulate me," he said. "My wife is the one who raised her. I'm gone most of the time. You have to have a very strong marriage, because this job is hell on a wife. "The money is OK, and I really like being out on the open road, but the loneliness . . ." He left the thought unfinished, and turned up the volume on his cassette deck.

It was playing Pedro Infante, the famous bolero balladeer, and Marquez began to sing. "The moon of my nights has hidden itself. "On little heavenly virgin, I am your son. "Give me your consolation.

"Today, when I'm suffering out in the world."

Despite the melancholy tone, Marquez soon became jovial and energetic. He smiled widely and encouraged his passengers to sing along. Forgoing his normal caution, he accelerated aggressively on the curves.

His voice rose, filling the cabin, drowning out the hiss of the pavement below and the rush of the wind that was blowing him inexorably toward the border.

#### HOW NAFTA ENDED THE BAN ON MEXICO'S TRUCKS

The North American Free Trade Agreement, which went into effect in January 1994, stipulated that the longtime U.S. restrictions on Mexican trucks be lifted.

Under NAFTA, by December 1995, Mexican trucks would be allowed to deliver loads all over the four U.S. border states—California, Arizona, New Mexico and Texas—and to pick up loads for their return trip to Mexico. U.S.

trucking firms would get similar rights to travel in Mexico. And by January 2000, Mexican trucks would be allowed throughout the United States.

However, bowing to pressure from the Teamsters union and the insurance industry, President Clinton blocked implementation of the NAFTA provisions. The Mexican government retaliated by imposing a similar ban on U.S. trucks.

As a result, the longtime status quo continues: Trucks from either side must transfer their loads to short-haul "drayage" truckers, who cross the border and transfer the cargo again to long-haul domestic trucks.

The complicated arrangement is time-consuming and expensive. Mexico estimates its losses at \$2 billion annually; U.S. shippers say they have incurred similar costs.

In 1998, Mexico filed a formal complaint under NAFTA, saying the U.S. ban violated the trade pact and was mere protectionism. The convoluted complaint process lasted nearly six years, until a three-person arbitration panel finally ruled Feb. 6 that the United States must lift its ban by March 8 or allow Mexico to levy punitive tariffs on U.S. exports.

#### COMPARING TRUCKING REGULATIONS

The planned border opening to Mexican trucks will pose a big challenge to U.S. inspectors, who will check to be sure that trucks from Mexico abide by stricter U.S. truck-safety regulations. Here are some of the differences:

##### *Hours-of-service limits for drivers*

In U.S.: Yes. Ten hours' consecutive driving, up to 15 consecutive hours on duty, 8 hours' consecutive rest, maximum of 70 hours' driving in eight-day period.

In Mexico: No.

##### *Driver's age*

In U.S.: 21 is minimum for interstate trucking.

In Mexico: 18.

##### *Random drug test*

In U.S.: Yes, for all drivers.

In Mexico: No.

##### *Automatic disqualification for certain medical conditions*

In U.S.: Yes.

In Mexico: No.

##### *Logbooks*

In U.S.: Yes. Standardized logbooks with date graphs are required and part of inspection criteria.

In Mexico: a new law requiring logbooks is not enforced, and virtually no truckers use them.

##### *Maximum weight limit (in pounds)*

In U.S.: 80,000.

In Mexico: 135,000.

##### *Roadside inspections*

In U.S.: Yes.

In Mexico: An inspection program began last year but has been discontinued.

##### *Out-of-service rules for safety deficiencies*

In U.S.: Yes.

In Mexico: Not currently. Program to be phased in over two years.

##### *Hazardous materials regulations*

In U.S.: A strict standards, training, licensure and inspection regime.

In Mexico: Much laxer program with far fewer identified chemicals and substances, and fewer licensure requirements.

##### *Vehicle safety standards*

In U.S.: Comprehensive standards for components such as antilock brakes, underride guards, night visibility of vehicle.

In Mexico: Newly enacted standards for vehicle inspections are voluntary for the first year and less rigorous than U.S. rules.

(Mr. DURBIN assumed the chair.)

Mrs. BOXER. It goes through the story of a driver who came across the border and who was completely exhausted. The article says:

It was sometime way after midnight in the middle of nowhere, and a giddy [truck driver] was at the wheel of 20 tons of hurtling, U.S.-bound merchandise.

The lights of oncoming trucks flared into a blur as they whooshed past on the narrow, two-lane highway, mere inches from the left mirror of his truck. Also gone in a blur were [the driver's] past two days, a nearly Olympic ordeal of driving with barely a few hours of sleep.

It is a harrowing story. The title of it is "Mexico's Trucks on Horizon, Long-distance haulers are headed into U.S. once Bush opens borders."

What the Murray language does in this bill is make sure, before this driver gets through the checkpoint, we can test him, we can talk to him, and we can tell him to get a rest. We can inspect his truck and see whether it meets the standards. That is why it is so important.

Quoting from the article:

A recent report by the U.S. Transportation Department said 35 percent of Mexican trucks that entered the United States last year were ordered off the road. . . .

I was told 25 percent, but it looks like it is 35 percent of the trucks were ordered off the road.

Now remember, we are only inspecting a couple percent, but out of that 35 percent were ordered off the road.

In Mexico, no logbooks are required. They are required in the United States. The driver has to keep track of his hours and itinerary.

It says this driver slept a total of 7 hours during his 3-day trip.

I know that young people have good instincts, but I would say, if somebody sleeps for 7 hours on a 3-day trip, I do not want them driving next to a family in Washington State or Illinois or California or anywhere on our highways. It is a disaster waiting to happen.

The Murray amendment is very important—the one pending—and the underlying language in the bill to make sure there is not a premature rush to say open the borders, everyone is coming in, until we have done certain important things. And those things are outlined in the Murray bill. I am going to go through what they are.

The Federal Motor Carrier Safety Administration must perform a full safety compliance review of the Mexican truck company, and it must give the Mexican truck company a satisfactory rating. And now with the added decal, we know those trucks will be inspected every 90 days. Federal and State inspectors must verify electronically the status and validity of the license of each driver of a Mexican truck crossing the border. It goes on.

We are going to make sure, before we open up this border completely—and right now what we are doing is we are allowing those trucks to drive just 20 miles from the border—before we open them up completely, they will be safe.

They talk about, in this article, the fact that these drivers are taking stimulant pills. In this particular case, the driver said he did not do that; he just needed a few cups of coffee to stay awake.

Actually, before this reporter went on this long-haul trip with the driver— [The] vice president of Transportes Castores jokingly asked a Chronicle reporter . . . “Do you want some pingas?”

“Pingas” is slang for “uppers.” So they did not even hide the fact that their drivers are using these pills.

Then the driver is quoted—this is really an incredible story; that is why I put it in the Record—as saying: “Don’t kid yourself.” He said this late on the third night. “Sometimes you get so tired, so worn, your head just falls.” “Your head just falls.”

So here the driver is coming in because of a free trade agreement, and the President of the United States, George Bush, has said he is picking a January 1 start date for them to have complete access to our highways. And if it was not for the Murray language, I will tell you, I think I would—there is an expression of throwing yourself in front of a truck—I would not go that far, but I would certainly use every legislative tool I had to stop that from happening because we know how dangerous it is.

The driver says—he has a religious statue in his truck— “Just in case, you know. The devil is always on the loose on these roads.”

They talk about the wide variety of dangers that these drivers face.

So I would just have to say, in conclusion, that we have a very important set of standards that we have developed in our country for both drivers and for the trucks they drive. Therefore, when we allow a whole other set of trucks and a whole other set of drivers into our Nation, where, in that country, they have nowhere near our standards for the drivers and the trucks, we have to make sure that we can, in fact, check those trucks and check those drivers to make sure that we are not putting our citizens at risk.

People who are for 100-percent free trade always say: Cheap goods, cheap goods for our people. And in many cases, it is true. But I will tell you, if you start losing a life on the road, and more lives than 1 or 2 or 10 or 100 or 1,000, it does not matter if you have a cheap T-shirt or a cheap appliance, or anything, if you cannot live long enough to enjoy it.

So to those free trade advocates who absolutely come to this Chamber—and there is nothing they will see that will take them off their blind path of free

trade—let me just simply say to them: You better imagine what could happen if we have a series of accidents where trucks do not have brakes, where drivers are exhausted and they are falling asleep at the wheel, where the trucks weigh 135,000 pounds, swaying on our freeways. This is crazy. In the name of free trade and George Bush’s decision that January 1 is the magic date—not on my watch, Mr. President. Twenty-three percent of those trucks come into California. Not on my watch.

Now, the House took more drastic action—I would go so far as to support that—which simply says we are cutting off the money until we believe we are ready for this influx of trucks. Good for them over there. They are right. This is that dangerous. Once we have our regime in place, once we have these trucks inspected, once these drivers live by our rules, once we have enough enforcement, once we are ginned up at the border to do this right, I will be the first one here saying: good work, let’s go.

But my colleagues ought to listen to the IG and his comments about how ill-prepared we are as of this date to accept this kind of influx.

So until we can guarantee the safety of these trucks and the condition of these drivers, until we can make those promises to our people, then I say that free access beyond that 20-mile border should not be granted. And until the Murray language is really carried out, I am going to do everything I can to make sure we do not allow in these kinds of truckdrivers who can barely keep their heads up. I am optimistic that our friends in Mexico will eventually adopt more rigorous standards. I am confident we will eventually be able to have drivers who are, in fact, not exhausted and not popping pills trying to keep awake. Eventually, it will happen. It will be good.

I am happy to yield to my friend if he has a question.

(Mr. EDWARDS assumed the chair.)

Mr. DURBIN. Mr. President, I followed the Senator’s statement. I am glad she made this a part of the RECORD. I hope she believes, as I do, that the chair of this important Appropriations Subcommittee, Senator MURRAY, has included very valuable language in this legislation which will establish some standards once and for all in terms of Mexican trucks coming across the border into the United States.

I would like to ask the Senator from California the following question. Recently, the Ambassador of Mexico came to my office and we talked about the truck issue. I said to him: Will your country, Mexico, agree that whatever trucks you send across the borders and whatever truckdrivers you send across the borders, they will meet the same standards of safety and competence as American trucks and Amer-

ican drivers? He said: Yes, we will agree to that standard.

I ask the Senator from California, based on the experience in California, whether that has happened, whether or not she has found in the inspection that the drivers and the trucks meet the standard of competency and safety that we require of American trucks and American truckdrivers.

Mrs. BOXER. Unfortunately, I say to my friend, it has been a disaster. Although we have inspected approximately 2 percent of the trucks coming across, out of those, 35 percent have failed. They have failed the inspection, which means that either the driver doesn’t meet our standards—he may be 18 years old or may have a medical condition—or the truck itself fails—maybe it is 135,000 pounds or more than the 80,000 pounds.

Prior to my friend walking in, I said I strongly support what Senator MURRAY is doing. I would even go further. I am glad her amendment takes us further. I commend her for what she has done. In terms of what the gentlemen told you in your office, if they have made that change, it is not a fact in evidence up until this point.

Mr. DURBIN. I also ask the Senator from California this, if she will further yield for a question. What the Senator is seeking, as I understand it, is at least the enforcement that Senator MURRAY has included in this Transportation appropriation bill, which includes, if I am not mistaken—and I stand to be corrected if I am—that we would in fact go into Mexico to the trucking firms, see these trucking firms, inspect their trucks in Mexico, understand the standards they are using for hiring drivers and the like; secondly, that all of the trucks coming in from Mexico would be subject to inspection in the United States.

It is my understanding, from Senator MURRAY’s bill, that of the 27 points of entry in the United States, there are only 2 currently inspecting trucks on a 24-hour basis—2 out of 27. So we have a system where, frankly, many thousands of trucks come in from Mexico without the most basic inspection in terms of safety.

I ask the Senator from California if she believes this would move us toward our goal of having safer trucks and truckdrivers coming in from Mexico.

Mrs. BOXER. There is no question. Under the Murray language, she is very clear to state that the Federal Motor Carrier Administration must perform a full safety compliance review of the Mexican truck company, and it must give the Mexican truck company a satisfactory rating before granting conditional or permanent authority outside the commercial zone—meaning that 20-mile zone—and the review must take place onsite at the Mexican truck company’s facility. That is absolutely accurate.

Again, the best of all worlds would be—and it would be terrific—if in Mexico they upgraded their laws to conform with American laws. We cannot force that, but I say as a friend of Mexico—a good friend—that is what they ought to do because then their people would be safer and we would not have to have all of this enforcement activity. But until they have brought their laws up to our level in terms of the trucks and drivers, we must enforce.

What I like about the Murray amendment—and I understand Senator SHELBY had a hand in this amendment, and I thank him from the bottom of my heart because 23 percent of that traffic comes right into my State. Without this amendment—and just setting an arbitrary date is a frightening thought—all these trucks would be coming in and we can only inspect 2 or 3 percent of them. God knows, we all fear what could happen in our States—a devastating accident with trucks that don't have brakes, drivers who have fallen asleep at the wheel, et cetera.

Mr. DURBIN. I thank the Senator for taking the floor and bringing this to our attention. We all encourage a free market economy and bargaining, but we don't want to bargain health and safety. We draw a line there. We hold other countries to the same standards to which we hold American trucking companies and American truckdrivers. Senators MURRAY and SHELBY have, I think, included language that moves us toward that goal.

I thank the Senator from California.

Mrs. BOXER. Mr. President, I thank Senator DURBIN for entering into this colloquy, and, again, I thank Senators MURRAY and SHELBY, and also Senator DORGAN, who has been working hard on the Commerce Committee. I also thank Senator FRITZ HOLLINGS, who, at my request in the Commerce Committee, did hold a hearing on this issue of NAFTA trucks. It was an eye-opener for us all. When you hear an inspector general talk about how a lot of these trucks don't have any brakes and they are trying to get into our country, that is a very frightening thought.

In conclusion, for those people who are free trade advocates—and my record on trade is I am for fair trade, which leads me to sometimes support trade agreements and sometimes not to. But for those who say “free trade at any price,” let me tell you this is too high a price to pay. If you want to deal a blow to free trade, work against the Murray-Shelby amendment. If you work against that language in this bill, and we have a situation where this President can open up this border and we start to have a series of tragic accidents, I will tell you, that will be the biggest setback for free trade. You really want to advance free and fair trade and support this decal language in the amendment pending and support the language in the underlying bill.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FITZGERALD. I thank the Chair.

Mr. President, I rise to speak today about two amendments that I have filed and will call up later. I recognize now we are dealing with an amendment concerning the trucks from Mexico. I wish to speak about a different issue, and that is something that is tucked into the Senate appropriations bill that deals with aviation in the Greater Chicago area.

I have been working with my colleague, Senator DURBIN, almost since the day I came to the Senate, to find a resolution to the air traffic problems in the Chicago area. Senator DURBIN has included language in the appropriations bill, as it was reported from the Transportation Appropriations Subcommittee, that addresses aviation transportation in the Chicago area.

This is the language that appears in this fiscal year 2002 Transportation appropriations bill concerning the Chicago-area aviation: Section 315 says:

The Secretary of Transportation shall, in cooperation with the Federal Aviation Administrator, encourage a locally developed and executed plan between the State of Illinois, the City of Chicago, and affected communities for the purpose of modernizing O'Hare International Airport, addressing traffic congestion along the Northwest Corridor including western airport access, and moving forward with a third Chicago-area airport. If such a plan cannot be developed and executed by said parties, the Secretary and the Administrator shall work with Congress to enact a Federal solution to address the aviation capacity crisis in the Chicago area.

In Chicago, aviation is the No. 1 issue. In fact, throughout northern Illinois, that is what my constituents are talking about. O'Hare Airport, which is one of the finest airports in the world, has been at capacity since 1969, and in recent years the traffic congestion has gotten worse than ever. I attribute a lot of that to a decision Congress made 2 years ago to lift the delay controls at LaGuardia and Chicago O'Hare Airports. After they lifted the delay controls which had been in effect since 1969, we started to see delays at O'Hare and LaGuardia go up exponentially.

As a result of those delays, now many people are trapped waiting on the tarmac at O'Hare and LaGuardia for their planes to take off. In fact, when I returned to Washington on Sunday evening, I was trapped on a United Airlines plane on the tarmac at O'Hare for at least 2 hours. I did not get into Washington until close to midnight.

This is becoming the norm that people experience as they travel through O'Hare, particularly in the summer months. Often, as we know, those airplanes are very uncomfortable, particularly in the hot weather, while you are waiting on the tarmac at O'Hare.

Last night, Senator DURBIN's office and my office had a softball game on the Mall. I am much chagrined to report that Senator DURBIN's office beat us by one run. I think the score was 9–8. But if we had been able to take one of the 22- or 23-year-old interns off Senator DURBIN's team and substitute that star athlete with Senator DURBIN, as my team was required to have me play, my team might have been more competitive. But Senator DURBIN spent, I believe, 3 hours on the tarmac at O'Hare yesterday and was unable to make that game. This is how it is when you travel through O'Hare.

I compliment Senator DURBIN on being active in trying to resolve the problems. Clearly, we are both interested in finding a solution, though we may have a different perspective on the solution.

One of the amendments I will later offer will add language to this section 315 that encourages any Federal, State, or local solution that comes out of this process to consider using the Rockford Airport.

Rockford is, I believe, the second largest community in the State of Illinois. It is on the Northwest Tollway, northwest of the city of Chicago. The Northwest Tollway runs from the Chicago loop out to O'Hare Airport and then it goes beyond, out to Rockford Airport.

Rockford Airport, which I visited a few weeks ago, is right now not being used, even though it is a wonderful facility with annual capacity for 237,000 operations a year. The airport has two magnificent runways: one 10,000 feet, another 8,200 feet. Right now the airport is being used for cargo operations. It is a hub for United Parcel Service, and they have been doing very well right there.

There is no reason the Rockford Airport should not be used to alleviate air traffic congestion in Chicago. Many of the solutions that others have proposed—expanding or modernizing O'Hare, tearing it up, rebuilding it so it can handle more flights, or building a third airport—those may all someday come to fruition, but all of those solutions will take years, if they ever happen at all, and they will cost hundreds of millions, even billions, many billions of dollars.

Meanwhile, just outside O'Hare, we have a fabulous airport that is already built, that does not require the expenditure of any money to get it used to alleviate air traffic congestion at O'Hare. The airport is being used sometimes to land planes from Midway or O'Hare when there is bad weather in the area and those planes have to land.

This chart is a schematic of the Greater Rockford Airport. We can see there are two runways that are already built, a 10,000-foot runway and an 8,200-foot runway. They also have plans for a future runway someday. Their passenger terminal is capable of handling 500,000 passengers per year. Their runways are state of the art. They have even, I am told, landed the Concorde at Rockford Airport. As far as I know, this airport is able to land any plane flying today.

It is superior in that respect—at least its runways are—to Chicago's Midway Airport, which was the busiest airport in the world before O'Hare was built in the late 1950s and early 1960s. The runways at Midway are only about 6,000 feet, and it makes it very difficult to have long-haul operations out of Midway.

I am going to offer language to section 315 that would encourage the use of Rockford. This is the wise thing to do for aviation consumers in the Chicago area and especially for the taxpayers, but it will not cost any money.

Mr. DURBIN. Will the Senator yield for a question?

Mr. FITZGERALD. I yield to the Senator.

Mr. DURBIN. Would the Senator object to my being shown as a cosponsor to the amendment?

Mr. FITZGERALD. I agree to that, Mr. President.

Mr. DURBIN. I make that unanimous consent request.

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

Mr. DURBIN. If the Senator will further yield for a question, would the Senator not agree that when it comes to this Rockford Airport—we may have disagreements on O'Hare; we may have disagreements about other airports; but we are in agreement that Rockford has an extraordinary facility currently not utilized by any commercial air carrier. Senator FITZGERALD has contacted airlines and I have contacted them as well.

My understanding is one of the major airlines in our country visited Rockford this week. We all believe this is a resource that should be available, no matter what we do in Chicago with O'Hare or even in Peotone. We are 5 to 10 years away from seeing any significant change. In the meantime, Rockford is a resource that should be examined and utilized to try to reduce congestion and delays at O'Hare and to provide quality air service to the people living in and around the Rockford area.

Mr. FITZGERALD. I thank my colleague from Illinois. I thank Senator DURBIN for joining as an original cosponsor of this amendment and also for working with me. This is absolutely one of the bright spots on the aviation picture in Illinois today, one of the issues on which we hope to agree. It is

one of the wonders of the world, in my judgment, that Rockford is not being used right now when it is so close to O'Hare. It is an easy answer, in my judgment, to alleviating traffic congestion at O'Hare.

I wish to point out a few things. In addition, there are 740,000 people living and working within 25 miles of Rockford Airport. Beyond that, there are 2.2 million people living within a 45-minute drive of Rockford Airport. There are probably not that many large cities in this country that would have that many people within a 45-minute drive of their airport.

Another point I have not made is that over 400,000 airline passengers a year depart from Rockford's market service area via bus to access the air transportation system at Chicago's O'Hare International Airport. Both American and United Airlines, which control almost all the operations at O'Hare, run several passenger shuttle buses to the Rockford Airport every day and funnel from there 400,000 passengers a year into their hub operation at O'Hare. That further congests O'Hare. In addition, I am told 800,000 people a year drive their cars from the Rockford area to get to O'Hare. There are 1.2 million people coming from the Rockford Airport—not using the Rockford Airport but coming out of Rockford to further congest O'Hare. It makes common sense we make greater use of the Rockford Airport.

I see Senator GRAMM is on the floor. I told him I would be happy to allow him to speak for a few minutes. With the approval of the Chair, I would like to come back and continue my discussion of Chicago aviation after Senator GRAMM has had an opportunity to speak.

With that, I yield the floor.

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

The Senator from Texas.

Mr. MCCAIN. Could I ask for 2 minutes on this issue?

Mr. GRAMM. I am happy to yield.

Mr. MCCAIN. Mr. President, we now will be addressing the issue of Mexican carriers. It is going to be, I assure the managers, a subject of extended debate. We believe also that we will have sufficient votes to sustain a Presidential veto if it comes to that.

The Senator from Texas and I will be speaking on the substance of various amendments we will have. We expect, unfortunately, extended discussion on this issue.

I wish to discuss the lack of negotiation on this issue. The Senator from Washington and the Senator from Alabama have refused to sit down and talk to us about this issue. I am deeply disappointed in that. I have done a lot of business on the floor of the Senate recently on some very difficult issues. On each of those occasions we have at least had a dialog in negotiations to

see if we could not find common ground. Unfortunately, the managers of the bill have not allowed such a discussion or debate.

I say to the Senator from Washington, I worked closely with her on an issue very important to her and her State because of a tragedy that took place on pipeline safety. No, I didn't always agree with the Senator from Washington, but we sat down and we worked together at hearings before the committee. I tell the Senator from Washington, I am very disappointed neither she nor her staff would sit down and discuss this issue with us so we could try to attempt to find common ground. I don't think we need a confrontation on this issue. I don't think the differences between the so-called Murray language and what the Senator from Texas and I are doing are that far apart. Now we have had to get the White House involved, the threat of a Presidential veto, and extended debate on this issue.

I ask again the managers of the bill: Could we please have a discussion and at least find common ground on this issue? So far, there has been an adamant refusal to enter into a discussion. I must say, I am very disappointed, especially on an issue of this importance, at least in my view, to the people of my State as well as the people of this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Let me give an outline of where we are and how we got here. I will be happy to yield the floor and let the distinguished subcommittee chairman speak.

The House of Representatives, following a policy of the Clinton administration, voted to deny the President the ability to implement NAFTA. I remind my colleagues that we entered into an agreement with Mexico and Canada to form the North American Free Trade Agreement and to form the largest free trade area in the world. Part of that agreement was to have free trade not just in goods but in services. Part of that agreement is we set a timetable during which we would allow trucks to cross the border within a certain distance for border-type trade and then we would set up a phase-in process whereby trucks could go back and forth across the border between Mexico and Canada, Mexico and the United States, the same way they do between the United States and Canada.

The deadline for that agreement to be fully implemented was on the verge of passing when George Bush became President. He made it clear in the campaign and he made it clear when he became President that he felt obligated to live up to the agreements we had made with Mexico and Canada in NAFTA. Those agreements gave us the ability to set safety standards with regard to Mexican trucks that basically

were similar to what we have with Canadian trucks and our own trucks. It did not give us the ability to have discriminatory standards.

The Teamsters Union had consistently opposed the implementation of this agreement. They opposed it, and President Clinton refused to begin the phase-in process, refused to start the inspection process, and now we are down to the moment of truth as to whether we are going to live up to the agreement we made in NAFTA.

I remind my colleagues, as tempting as it is for our own advantage, at least our perceived political advantage, to go back on the commitment we made to NAFTA—first of all, in doing so we are discriminating against our Mexican neighbor because we are treating them differently than we are treating our Canadian neighbors.

Secondly, all over the world, legislative bodies are debating whether or not to go back on agreements they have made with the United States. One of reasons I feel so strongly about this issue, I believe the credibility of the American nation is on the line as to whether we will live up to the agreement we have made.

Now, there is no question about the fact that the White House, after having an absolute prohibition on the implementation of the treaty in the House, the White House was delighted to see a similar action not taken in the Appropriations Committee. In that case, it was the lesser of what they perceived to be the two evils.

The problem is, when we look at the amendment currently in this bill, there are several provisions that clearly violate NAFTA, several of them violate GATT, and all of them represent a procedure whereby we treat Mexico very differently than we treat Canada.

Let me give three examples of provisions in the bill that clearly violate NAFTA.

The first is a provision in the bill that requires that Mexican trucks be insured by American insurers—not just insurers who are licensed in the United States but insurers who are domiciled in the United States. That is a clear violation of NAFTA and a clear violation of GATT because it basically denies national treatment standards to which we agreed.

The PRESIDING OFFICER. Under the previous order, the Senate is scheduled to stand in recess at 12:30.

Mr. GRAMM. I ask unanimous consent I might have 5 additional minutes.

Mrs. MURRAY. Mr. President, how much time does the Senator from Texas require at this time?

Mr. GRAMM. I have asked for 5 additional minutes.

Mrs. MURRAY. Mr. President, I would like 2 minutes to respond when the Senator from Texas concludes. Does the Senator from Alaska wish to make a statement?

Mr. STEVENS. Not during the lunch hour, no.

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

Mr. GRAMM. Let me review the three areas that are clear violations of NAFTA in this provision before us. The first is a provision requiring companies to buy American insurance. It is one thing to say they have to have insurance licensed in the United States. That would conform with NAFTA. But to say they have to buy insurance from companies domiciled in the United States is a clear violation of NAFTA, it is a clear violation of GATT, and it violates the national treatment standards that we have set out in trade. This is critically important to America because all over the world we have American business interests that would be jeopardized if other countries engaged in similar activities against America.

Another provision which clearly singles out Mexican truckers, where American truckers are not affected by a similar provision and neither are Canadian truckers, is a punitive provision that says if you are subject to suspension or restriction or limitations, you can't lease trucks to anybody else. No such requirement exists in American law. No such requirement exists with regard to Canadian trucks. But there is such a limitation in this amendment, and that limitation clearly violates NAFTA by denying Mexican economic interests the same protection of the law that American economic interests and Canadian economic interests have.

Another provision of the law which is totally different from the way we treat American trucks and the way we treat Canadian trucks is that if a foreign carrier is in violation, a foreign carrier can be permanently banned from doing business in the United States. Where is a similar provision with regard to Canadian trucks and American trucks?

Let me summarize, since I am running out of time, by making the following points: No. 1, I am for safety. I have more Mexican trucks operating in my State than any other person in the Senate, other than Senator HUTCHISON, who represents the same State I do. I am concerned about safety, but I do not believe we can sustain in world public opinion a provision that discriminates against our neighbors in Mexico, a provision that treats Canadians under one standard and Mexicans under another. If we want temporary measures whereby we can get Mexican trucks up to standard, that is something with which I can live. But permanent provisions where we are treating Mexico different than Canada, that is something with which I cannot live.

I think it is important that we try to work out a compromise. But I can assure you, given that the administration believes this issue is critical to the credibility of the United States in negotiating trade agreements and en-

forcing our trade agreements around the world, Senator MCCAIN and I and Senator LOTT intend to fight to preserve the President's position.

Some suggestion has been made that we just would do a cloture on the amendment of Senator MURRAY. I remind my colleagues, the amendment is amendable. If it were clotured, we would have 30 hours of debate on cloture, and there would then be three other cloture votes on this bill. I do not think that is a road we want to go down.

What is the solution? The solution is to have strong safety standards, but you have to apply the same safety standards to Canadian trucks that you do to Mexican trucks. We do not have second-class citizens in America, and we are not going to have second-class trading partners. We cannot set one standard for Mexicans and one standard for Canadians in a free trade agreement that involves all three countries.

So Senator MCCAIN and I are for safety, but we are not for protectionism. We are not for provisions that make it impossible for the President to provide leadership to comply with NAFTA, and we are willing to fight to preserve the President's ability to live up to our trade agreements.

I hope something can be worked out. I am not sure where the votes are. What I see happening is that protectionism is being couched in the cloak of safety. We are willing to have every legitimate safety provision for Mexican trucks that we have for Canadian trucks and for American trucks. We are willing to have a transition period where we have more intensive inspection. But in the end, in a free trade agreement involving three countries, we have to treat all three countries the same. What we cannot live with is discrimination against our trading partner to the south.

I appreciate the Chair's indulgence.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Washington has 2 minutes.

Mrs. MURRAY. Mr. President, I heard the comments of the Senators from Arizona and Texas. I want to make it very clear, I have never been against discussion. We put this bill out on the floor last Friday. It has been out here for 3 days. I have continually said I am happy to look at any language any Member brings me on any item of discussion under transportation. What I am against is weakening any of the safety provisions we have included in the committee bill.

The proposal that was given to me by the Senator from Arizona considerably weakens and actually guts many of the safety provisions that Senator SHELBY and I put into the underlying bill. That simply is not a path we are going to take on the Senate floor. Our provisions were adopted unanimously in the Appropriations Committee. I am not

interested in going into a back room and negotiating a sellout of the committee or of the safety provisions that I believe are extremely important. That is simply a nonstarter for me as manager of this bill.

I do remind all Senators they can offer amendments and this Senator is happy to consider them as the rules allow. As far as the NAFTA provisions are concerned, I will remind all of our colleagues once again, the underlying bill is not a violation of NAFTA. That is very clear. I set that out in my remarks this morning, and I am to go through that again this afternoon.

Mr. President, I ask unanimous consent that at 2:15, when the Senate reconvenes, the Senator from Illinois be allowed 20 minutes to discuss his issue that he would like to present to us and then Senator BILL NELSON from Florida be recognized.

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

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, at 12:38 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CLINTON).

#### DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois was to be recognized for 20 minutes.

The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent I be permitted to proceed now for 5 minutes, and then return to the regular order.

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

Mr. DOMENICI. Madam President, it isn't that this subject matter should be dealt with briefly, but I think I can express my concerns in 5 minutes. I hope others are as concerned as I about this issue.

Senator MURRAY is here on the floor. She is the chairman of the Subcommittee on Transportation. She has worked very hard to accommodate this bill through language with reference to Mexico and Mexican trucking and busing between our borders under NAFTA. She has worked very hard to get something much better than that which was passed in the House and she kept things from passing in our subcommittee that would be much worse than the arrangement we now have in the bill with her amendment.

I would like to say that the United States should be quite pleased today that we have a new relationship grow-

ing between the Republic of Mexico and the United States. It is obvious everywhere you go in Mexico with everyone you talk to, and with everyone you talk to in the border States, that the arrival of President Fox has brought a whole new attitude between these two great countries.

For instance, in the 29 years or so that I have been here, there have been four Presidents of Mexico, but not a single one was willing to say that the economic problems of Mexico are not America's problems, and we have to solve our own. President Fox is the first President to say we had better improve the permit system for people coming from his country to work here because he believes they should do this in a legal manner instead of a manner that leaves many Mexicans here in positions of hiding out while they hold jobs and they can't return home—some wonderful ideas about what should happen on our border in terms of cleaning up the border which has grown topsyturvy. Law enforcement can now trust Mexican law enforcement for the first time in modern times. The litany goes on.

I, for one, hope the Senators from both sides of the aisle will find a way to sit down and draft a provision on the busing and trucking access to the United States pursuant to the NAFTA arrangements. There are some who have said their trucks aren't safe enough, that they don't have the right kind of insurance—and a rather major litany.

I suggest we had better be careful that we are not couching these things in a way so as to avoid what it really is. It appears to me it is borderline discrimination against Mexican enterprise. There has to be a better way to solve it than we have solved it in this Transportation bill, but in a way that will let Mexico and Mexico's leaders say we are equal partners with the United States, and that we are going to be treated the same way as Canada. Canada, America, and Mexico are the three partners. I believe to do otherwise is to say to the Mexican people and the new President: We don't care about you; we don't even care if we discriminate against you; we have a hot issue, and we are going to pass something; and maybe in a few years we can work something out with you, Mr. President of Mexico, as a NAFTA partner of the United States.

I believe the time is now, on this bill. The President has said he will veto the bill with the Murray language in it. That is official. We ought to sit down and work out something for them so it won't be vetoed.

There are great American transportation issues and problems for every Senator and for every State. We ought to get the bill passed. The way to get it passed is not to send it to the President with language he already said he

will veto and offend Mexico unjustifiably. What we are doing is unjustifiable. Let's get it resolved.

There is a simple proposition around. Let's come up with a California solution. I am pretty familiar with the various solutions. Let us in the Senate say we stand ready to help.

I hope we can do this and pass the bill in due course—the full bill—and put some legislation in it that will protect Mexico against discrimination in trucking and busing and allow them to grow and prosper, but at the same time offer as much assurance as we can that their vehicles are going to be safe, and include whatever other requirements we need to ensure they are treated like trucks coming from Canada.

Mr. President, I stand in strong support of permitting Mexican motor carriers full access to the United States in a safe, fair, and timely manner.

The North American Free Trade Agreement went into effect in January 1994. The agreement calls on each country to apply national treatment to services of each of the trading partners. NAFTA required that Mexican trucks have full access to the United States by January 1, 2001.

Rather than prepare ourselves to meet this obligation, we foolishly prohibited our southern partner's trucks beyond 20 miles from the border.

An arbitration panel ruled that the United States violated NAFTA, and today we face the possibility of trade sanctions in excess of \$1 billion per year of noncompliance.

Some hope to completely bar Mexican domiciled motor carriers, assuming that because they are Mexican, then they are necessarily unsafe.

I applaud Senator MURRAY's attempt to craft a balance to ensure that Mexican trucks are safe, while meeting our national obligation.

As a Senator from a border state, I am deeply concerned about the safety of Mexican trucks. However, I do not believe that we should use safety as an excuse to inappropriately discriminate against Mexico.

As such, I have some fundamental concerns about the language of Senator MURRAY's proposal.

Principally, I am troubled that it seems to harbor a deep mistrust of Mexico.

The United States and Mexico both agree that Mexico must comply with U.S. laws, and that it is the United States' right to enforce those laws. Why then, must we impose additional and unreasonable requirements before permitting Mexican motor carriers access?

NAFTA requires that each member country give national treatment to the other member countries. That means that Mexico and Canada must abide by U.S. safety standards when in the U.S.

Canada has been doing so for some time, and Mexico is prepared and eagerly awaits the opportunity to do so.