

as it turned out, during the 1972 election campaign. What the Post, courts and Congress learned forced Mr. Nixon's resignation.

The third, in 1975, was to respond to sabotage of presses by striking pressmen with a determination to publish with nonunion pressmen and defeat such tactics.

The decision were connected. Without the first, she might not have stuck with the second, or without that triumph, the third.

Katharine Meyer, born in 1917, never intended such a role in national life. Her financier father bought the failing newspaper in 1933. She married a brilliant young lawyer, Philip Graham, whom her father made associate publisher, later publisher.

His progressive mental illness and suicide in 1963 propelled her timidly into his shoes if only to save the newspaper for the family. The rest is not merely history; it is her 1997 Pulitzer Prize-winning memoir, *Personal History*.

As publisher and chief executive until turning power over to her son, Donald, in 1991, Mrs. Graham built a media empire. At its heart was a newspaper that penetrated its market as no other and that grew into one of the world's best.

Mrs. Graham was a power in Washington, and a force in publishing—positive in both spheres—until her death following a fall in Sun Valley, Idaho. Her good works survive her.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I intend to speak on the pending Murray amendment. I ask unanimous consent to take as much time as I might consume.

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

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

MCCAIN-GRAMM ALTERNATIVES

Mr. MCCAIN. Mr. President, we just concluded a meeting with several Members who were involved in this matter, including the distinguished minority whip, Senator REID. I thank Senator SHELBY, who was responsible for this meeting. I think it was helpful. Representatives of the administration were there. I think at least we were able to establish lines of communication and dialog on this important issue.

Before I discuss the proposed McCain-Gramm substitute that we may be proposing, depending on the status of negotiations, I wish to emphasize the importance of this issue. Here we are on an appropriations bill—an appropriations bill—a piece of legislation that profoundly affects, in my view and perhaps far more important the view of the administration, profoundly affects a solemn trade agreement entered into between three nations: United States, Mexico, and Canada. Here we are debating a provision on an appropriations bill that is supposed to pay for the transportation needs of this country.

I say again to my colleagues, this is the wrong way to do business. So, therefore, because of the deep concerns that I, Senator GRAMM, Senator BOND,

Senator DOMENICI, and many others have, we have to do what we can to see that this appropriations bill does not have language in it which, as I say, in my view and that of the administration and objective observers, is in violation of the North American Free Trade Agreement. That is why we here have been tied up now for a couple of days and will continue to be so, unless we can come to some agreement that will satisfy the concerns we have that we would be violating the trade agreement.

I remind my colleagues again, a panel already has declared the United States is in violation of NAFTA because of our failure to allow carrier crossings.

We could be subject to sanctions to the tune of billions of dollars imposed by the Mexican Government. I hasten to add the Mexican Government has not threatened us, but we could be liable for that.

I hope our negotiations can continue. I hope that the advice of the senior advisers to the President recommending a veto of the bill in its present form will not happen. There are much needed transportation projects in this appropriations bill, and, in my own view, some that are not needed. But I will not go into that at this particular time.

The fact is that we need to negotiate. The areas of disagreement are not that great, but they are significant.

There are 22 provisions in this legislation which cumulatively would ensure that it would be impossible to implement the carrier truck crossings for 2 or maybe as much as 3 years. I hope we can get this worked out. As I say, our differences are not that great.

Unlike the House provisions, this legislation provides significant funding to enable the Department of Transportation to hire and train more safety inspectors and to build more inspection facilities at the southern border. I strongly commend the committee for this action.

However, as I previously explained, I have concerns over a number of requirements included in the bill that if enacted without modifications, could effectively prevent the opening of the border indefinitely. My concerns are shared by other colleagues and the administration.

The administration estimates the Senate provisions under section 343 would result in a further delay in opening the border for another 2 years or more. This would be a direct violation of NAFTA. It effectively provides a blanket prohibition from allowing any Mexican motor carrier from operating beyond the commercial zones. This view is shared by a number of us, as well as the President's senior advisers, who have clearly indicated they will recommend the President veto this if it includes either the House-passed or pending Senate language.

I recognize that at first glance, many of the requirements in section 343 appear reasonable. However, I am informed by DOT officials that it simply cannot fulfill all 22 requirements imposed by section 343 in the near term. To quote from the Statement of Administration Policy, transmitted to the Senate last Thursday.

The Senate Committee has adopted provisions that could cause the United States to violate our commitments under NAFTA. Unless changes are made to the Senate bill, the President's senior advisers will recommend that the President veto the bill.

There may be debate back and forth as to whether these provisions in section 343 of the bill are in compliance with NAFTA. The fact is that the senior advisers to the President of the United States have determined that it places us out of compliance. Therefore, that discussion becomes somewhat academic, if the President is going to veto the bill.

I would like to discuss the provisions of concern, and explain how our amendment proposes to address those concerns while seeking to retain the underlying intent of the provisions, at least in the context of safety. It is very important to point out that like the committee's approach, our amendment goes much further than the DOT had planned to go based on its May 2001, Federal Register notice of proposed rulemaking on how it would address cross border safety. But our approach would not prevent the border opening indefinitely.

First, section 343 requires the Federal Motor Carrier Safety Administration to conduct a full safety compliance review before granting conditional operating authority and again before granting permanent authority and to assign a safety rating to the carrier. The reviews must be conducted onsite in Mexico.

The problem with that requirement is that a compliance review assesses carrier performance while operating in the United States. It is conducted when a carrier's performance indicates a problem—that it is at risk. As a technical matter, a full fledged compliance review of a Mexican carrier would be meaningless since that carrier won't have been operating in this country and won't have the type of performance data that is audited during a compliance review. If DOT is forced to conduct what would largely be a meaningless compliance review, every carrier will receive a satisfactory rating because there will be no records or data from which to find violations of the Federal Motor Carrier Safety Regulations.

Further, DOT estimates it would cost \$40 million if it is required to perform a compliance review of every carrier seeking operating authority and another \$10 million to perform such a review onsite. Therefore, the Senate bill

would need an additional \$50 million if DOT is to carry out this largely meaningless mandate.

A workable alternative, however, would be to require a safety review, as included in our amendment. It is far more prescriptive than the type of review mentioned in the May 2001, notice of proposed rulemaking regarding implementation of NAFTA's cross border provisions. It would provide for a review of available performance data and safety management programs, including drug and alcohol testing; drivers' qualifications; drivers' house-of-service records; vehicle inspection records, proof of insurance, and other information necessary to determine the carrier's preparedness to comply with Federal motor carrier safety rules and regulations. If warranted by safety considerations or the availability of safety performance data, the review should be conducted onsite.

I believe a safety review would go a long way in addressing the safety considerations and would likely provide the verification of data the managers of the bill are seeking. Frankly, it requires substantial analysis that is not imposed upon United States or Canadian carriers, who only need to complete an application available online and transmit it to DOT along with \$300. I am very hopeful the Mexican Government will be willing to accept the type of approach described in our amendment, even though it would treat Mexican carriers substantially different than United States or Canadian carriers.

Second, the administration has raised concerns with the proposed requirement that each and every time a truck crosses the border, it must electronically verify the driver's commercial driver's license, CDL. The DOT has expressed considerable concern that such a requirement would significantly impede the flow of traffic and commerce at the border. Backups can already exceed more than 4 hours at some crossings in Texas. DOT has estimated such backups would increase immensely. The idling vehicles would obviously have an enormous impact on the environment. DOT also estimates the cost of electronic verification at all 27 crossings at \$14.6 million.

It is important to note, we do not verify every license of every Canadian driver that crosses the northern border. I believe it would be discriminatory to check every single Mexican driver's license when we do not check other operators in this country. I believe it sends a signal we do not want to send and strongly caution all of my colleagues on this proposal.

As an alternative, our amendment would require that each truck that will be operating beyond the commercial zones to be inspected prior to operating in this country and that during such an inspection, the inspector would verify

the driver's CDL. Each vehicle must display a valid Commercial Vehicle Safety Alliance, CVSA, decal obtained as a result of a level I or level V North American Standard Inspection. It is important to note that vehicles must be reinspected every 90 days to be valid.

Let me point out the Senator from Washington has offered an amendment to also require vehicle inspections. I suspect she developed the amendment after hearing last week that our amendment would include this important safety feature.

In further regard to verifying a driver's CDL, our amendment calls for DOT to institute a policy for random electronic or other verification of the license of drivers crossing at the border. This would be far less discriminatory, and would not have as great an impact on crossing delays.

Let me also point out that the record of Mexican drivers is better than that of either Canadian or United States drivers. Based on the available data provided by DOT, the out of service rate for Mexican drivers is 6 percent; it is 8 percent for United States drivers; and 9.5 percent for Canadian drivers. If the managers of this bill are concerned about drivers, perhaps they need to first focus on where the greatest safety problem appears to exist.

Third, section 343 would require all border crossings be equipped with both weigh-in-motion, WIM, systems and fixed scales and that every commercial truck crossing the southern border must be weighed. This requirement raises significant cost, space, and time considerations. DOT contends it would result in extensive construction and could postpone the border opening until 2003.

Weight enforcement has historically been a state enforcement responsibility, which is one of the reasons weigh stations are located throughout every state.

In the border States, for example, each State already has numerous weigh stations. California has 62 fixed scales and 10 weigh-in-motion systems. Arizona has 20 fixed scales and 5 weigh-in-motion systems. New Mexico has 12 fixed scales and 2 weigh-in-motion systems. Texas has 47 fixed scales and 2 weigh-in-motion systems.

The estimates cost of standard weigh-in-motion installation for a 4-lane configuration is \$715,000. And while such systems help determine whether a truck should be weighed, a citation cannot be issued off the reading of weigh-in-motion equipment. FHWA further estimates the cost of installing fixed scales approximately \$2 to \$3 million each.

I note such a requirement is not imposed on trucks entering the United States from Canada. Moreover, this mandate simply is not the best use of limited resources. One crossing only

had 198 trucks cross last year. I question the logic of requiring both a fixed-scale and weigh-in-motion system at such a location. At a minimum, shouldn't we first be concerned about those locations with the greatest volume of traffic?

Our amendment would require each crossing to have a means of weighing a carrier and for DOT to initiate a study to determine which crossings should also be equipped with weigh-in-motion systems that would enable State inspectors to verify the weight of each vehicle. It would not shift weight enforcement responsibilities from the States to the Federal Government, nor would it mandate that all 17 crossings have equipment that may not be needed.

Fourth, section 343 restricts a carrier's insurance provider to be based in the United States. While I am not opposed to requiring proof of valid insurance and for the insurance provider to be licensed in the United States, limiting providers to only those based in the United States would prevent a number of large providers from providing insurance, including Lloyds of London which covers many Canadian carriers. I am informed this could also raise issues with regard to NAFTA and WTO obligations. Therefore, our amendment would strike the proposed requirement for an insurance provider to be based in the United States.

Fifth, section 343 would prevent compliance with our NAFTA obligations until the Federal Motor Carrier Safety Administration completes six rulemakings or policy implementations required under the Motor Carrier Safety Improvement Act of 1999. Clearly, an agency should be held accountable to fulfill the obligations imposed on it. The Federal Motor Carrier Safety Administration is no exception.

Perhaps if the previous administration had ever nominated an Administrator to provide leadership over this agency, the rulemakings would have been carried out in a more timely manner. After all, the driving force behind its creation was the overwhelming evidence that motor carrier safety was in dire need of leadership. Yet President Bush's nomination of Joe Clapp to be Administrator of the Federal Motor Carrier Safety Administration last week marks the first time we will have had the opportunity to consider and confirm an administrator for this critical post.

Perhaps if the Senate would confirm the pending nominee to head the Department of Transportation's General Counsel's Office, the Department would be better equipped to complete these and other pending rulemakings. It is ironic to me that the proponents of section 343 are criticizing the current administration for the lack of action by the former, while at the same time holding up the current confirmation process.

Our amendment proposes to require DOT to issue several policies that we believe can readily be issued before the end of the year, including a policy requiring motor carrier safety inspectors to be on duty during all operating hours at all southern border crossings used by commercial vehicles; a policy to establish standards to help determine the appropriate number of Federal and State motor carrier inspectors for the southern border; and a policy to prohibit foreign motor carriers from operating in the United States that are found to have operated here illegally.

Our amendment further instructs the Department to complete the remaining three rulemakings listed in section 343. If the Department is unable to do so, which may be the case since there are holds on the pending nominee responsible for the rulemakings, it is to transmit to the Congress, within 30 days after the date of enactment of this act, a notice in writing that it will not be able to complete any of the rulemakings prior to the opening of the border that explains why it will not be able to complete the rulemaking, and the precise date it expects to complete the rulemaking. I am concerned that as much as DOT may want to finish these rulemakings, given the lack of a general counsel and other staffing considerations as a result of the transition, they simply might not be able to do so. Our ability to fulfill our NAFTA obligations should not be delayed by congressional "holds."

Sixth, section 343 requires the DOT inspector general to certify in writing that eight conditions have been met prior to permitting the President to open the border. Unfortunately, a number of the directives are, in my judgment, inappropriate requirements for an inspector general. I do not believe it would be appropriate for the IG to be required to certify certain actions of the Mexican Government. Nor do I think it would be appreciated if someone from the Mexican Government were making pronouncements about our practices, all contingent upon compliance with our NAFTA obligations.

Moreover, both the DOT Secretary and the DOT Inspector General believe these provisions call for inappropriate operational management by the inspector general. These proposed functions go beyond the scope of authorized activities in the Inspector General Act. Implementation of the NAFTA cross-border trucking provisions should not be conditioned on actions by the Inspector General.

We have the greatest respect for the work of the Office of the Inspector General. Therefore, our amendment would instead direct the inspector general to report on the number of Federal motor carrier safety inspectors hired, trained as safety specialists, and prepared to be on duty during hours of operation at the southern border by January 1, 2002;

and to provide periodic reports on several other border-related issues. These would include reporting on, No. 1, the adequacy of the number of Federal and State inspectors at the United States-Mexican border; No. 2, the Federal Motor Carrier Safety Administration's enforcement of hours-of-service rules; No. 3, whether United States and Mexican enforcement databases are sufficiently integrated and accessible to ensure that licenses, vehicle registrations, and insurance information can be verified at border crossing or by mobile enforcement units; and No. 4, the level of capacity at each southern border crossing used by commercial vehicles to conduct a sufficient number of vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of the inspections.

We believe these reports would be very useful to the Secretary and the Congress as we all work to ensure that adequate safety enforcement efforts by the States and Federal Government are being carried out as we fulfill our NAFTA commitments.

Finally, section 343 would define the term "Mexican Motor carrier" as a "Mexico-domiciled motor carrier operating beyond the United States municipalities and commercial zones on the United States-Mexico border." Based on this definition, nearly the entire section would only be applicable to carriers that had been operating illegally in this country and a few that have authority. I am confident this is not the Appropriation Committee's intent and note there was an effort to strike the definition with a technical amendment on Friday.

However, striking that definition might then impose many of the requirements on those carriers that will only be operating in the commercial zones, as well as on United States and Canadian vehicles. The focus of this provision was to have been aimed at the long-haul carriers. The definition must be modified to clarify the intent. The provision should only apply to those motor carriers domiciled in Mexico that seek authority to operate beyond municipalities and commercial zones on the United States-Mexico border and only to those vehicles that will be operating beyond the municipalities and commercial zones.

We must allow Department of Transportation sufficient flexibility to effectively administer its motor carrier safety enforcement responsibilities. The language in section 343 does not meet that standard. I urge my colleagues to support modifications to section 343. Without changes, we can look forward to a veto of this bill. I would not suggest the managers take the risk that we would not have the votes to sustain the President's first veto.

Mr. President, I again thank Senator REID, Senator SHELBY, and others for

beginning a dialog on this very important issue. During the meeting a suggestion was made that all of the provisions be dropped from the appropriations bill—which I think would be entirely appropriate because they are legislating on an appropriations bill—and the Senate and House go to conference with the onerous and unacceptable House provision in it. That is perfectly acceptable to me because there is nothing I can do as a Member of this body to affect what the other body does.

But as long as we have these provisions, the 22 provisions which cumulatively, in the view of the senior advisers to the President, make NAFTA unable to be implemented for at least 2 or 3 years, then we shall have to continue the parliamentary process.

So I think there are a number of options available, including dropping the entire language, which is what a senior Member has proposed, which I agree with, and let it go to conference with the other body, or accept specific amendments. Another amendment the Senator from Texas, Mr. GRAMM, has is to make sure Mexico is treated, in whatever implementation of NAFTA is accomplished, on an equal basis with the United States and Canada. I think that would be a very important amendment because we can't send a signal that we are somehow discriminating against one of the signatories of the North American Free Trade Agreement.

So I hope we can get this worked out. I hope my colleagues will understand, in our desire to complete this legislation, the importance of this issue to all Americans, but particularly those of us from border States, because we are the ones who have been most impacted by the North American Free Trade Agreement. We will be the most impacted on the border with implementation of that agreement, so we look with concern to the legislation before this body.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. 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. GRAHAM. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. That is correct.

Mr. GRAHAM. I ask for 15 minutes.

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

SPECIAL TRIBUTE TO KATHARINE GRAHAM

Mr. GRAHAM. Mr. President, 1 week ago today Katharine Graham died. Yesterday, she was buried next to her husband, my half brother, Philip Graham.