''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

TEXT OF AMENDMENTS

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. BAUCUS to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

SA 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. FEINGOLD and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 15 through 22, and insert the following:

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. DORGAN (for himself and Mr. REID) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all of page 2 and insert the following:

''(b) The Secretary of Energy shall direct the National Petroleum Council to conduct an evaluation and analysis determining the extent to which environmental and other regulations detrimentally affect new domestic refinery construction and significant expansion of existing refinery capacity.''

''(c) REPORTS TO CONGRESS.—

(1) On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission

(2) On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis;

(B) any recommendations of the National Petroleum Council.''

SA 746. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $650,000,000 for the period of fiscal years 2005 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2005;

''(B) $130,000,000 shall be for fiscal year 2006;

''(C) $130,000,000 shall be for fiscal year 2007;

''(D) $130,000,000 shall be for fiscal year 2008; and

''(E) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other and any apportioned formula program including the equity bonus program; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end of the following:

''178. Appalachian development highway system completion program.''.

SA 747. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

(e) FUNDING.—

(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $300,000,000 for the period of fiscal years 2005 through 2009, of which—

(A) $60,000,000,000 shall be for fiscal year 2005;

(B) $60,000,000,000 shall be for fiscal year 2006;

(C) $60,000,000,000 shall be for fiscal year 2007;

(D) $60,000,000,000 shall be for fiscal year 2008; and

(E) $60,000,000,000 shall be for fiscal year 2009.

(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other apportioned formula program including the equity bonus program; and

(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

178. Appalachian development highway system completion program.''.

SA 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. WARNER and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(b) Coalfields Expressway, West Virginia.—

(1) DESIGNATION.—Except as provided in paragraph (2), there is designated as an addition to the Appalachian Development Highway System in the State of West Virginia, the Coalfields Expressway from Paynesville, West Virginia to Beckley, West Virginia.

(2) MODIFICATION OF MILEAGE.—Section 14501(a) of title 40, United States Code, is amended in the second sentence by striking ''3,090'' and inserting ''3,153.''.

SA 749. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 8, strike ''in the State of Maine'' and insert ''in the State of Maine (including the area designated as the Maine Turnpike)''.

SA 750. Mr. LOTT (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. ALLEN (for himself and Mr. ENSIGN) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

''§ 405. Safety belt performance grants

''(a) IN GENERAL.—The Secretary of Transportation shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

''(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

''(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

''(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

''(B) in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate for each of the 2 calendar years immediately preceding the fiscal year of a grant of 85 percent or more, as measured under criteria determined by the Secretary.

''(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c) of this title.

''(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (l)(A), a primary safety belt use law enacted after June 30th of any year shall—

''(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

''(B) be considered as if it were enacted after the beginning of the next Federal fiscal year.

''(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which—

''(A) the primary safety belt use law came into effect; or

''(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured by criteria determined by the Secretary),

whichever first occurs.

''(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to paragraph (4)).

''(c) GRANTS FOR PRE-2003 LAWS.—To the extent that amounts made available for any of fiscal years 2006 through 2009 exceed the total amounts to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003. The amount of a grant available to a State under this subsection shall be equal to 250 percent of the amount of funds apportioned to the State under section 402(c) of this title for fiscal year 2003. The Secretary may award the grant in up to 4 installments over a period of 4 fiscal years beginning with fiscal year 2006.

''(d) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall make additional grants under this section of any amounts available for grants under this section that, on July 1, 2009, are neither obligated nor expended.The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c) of this title.

''(e) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

''(A) intersection improvements;

''(B) pavement and shoulder widening;

''(C) installation of rumble strips and other warning devices;

''(D) improving skid resistance;

''(E) improvements for pedestrian or bicyclist safety;

''(I) railway-highway crossing safety;

''(G) traffic calming;

''(H) the elimination of roadside obstacles;

''(I) improving highway signage and pavement marking;

''(J) installing priority control systems for emergency vehicles at signalized intersections;

''(K) installing traffic control or warning devices at locations with high accident potential;

''(L) safety-conscious planning; and

''(M) improving crash data collection and analysis.

''(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

''(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

''(f) CARRY FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

''(g) FEDERAL SHARE.—The Federal share payable for grants under this subsection is 100 percent.

''(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—

''(1) a passenger car,

''(2) a pickup truck,

''(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.'' .

SA 751. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. .—SENSE OF THE SENATE REAFFIRMING SUPPORT FOR CURRENT FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT

FINDINGS.—Congress finds that—

On March 11, 1998, the Senate agreed unanimously to a resolution reaffirming limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

In 2000, the United States Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles;

In 2004, the United States Department of Transportation released the Western Uniformity Scenario Analysis report, which stated the Department does not favor change in federal truck size and weight policy; that nationwide, the Department believes an appropriate balance has been struck on truck size and weight; and that the Department opposes a piecemeal approach to truck size and weight policy;

SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under section 127(a) and (d) of title 23, United States Code, should not be amended so as to weaken the current 'freeze' on those vehicles or result in any more or less restrictive prohibition or restriction on those vehicles.

SA 752. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transmit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment; insert the following:

Sec.____ Incentives for the installation of Alternative Fuel Refueling Stations.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 753. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 5 and all that follows and insert the following:

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d),

but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. SENSE OF THE SENATE REAFFIRMING SUPPORT FOR FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT.

(a) FINDINGS.—Congress finds that –

(1) on March 11, 1998, the Senate agreed unanimously to reaffirm limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

(2) in 2000, the Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure, and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles; and

(3) in 2004, the Department of Transportation released the Western Uniformity Scenario Analysis report, which stated that the Department—

(A) does not favor change in Federal truck size and weight policy;

(B) believes an appropriate balance has been struck nationwide on truck size and weight; and

(C) opposes a piecemeal approach to truck size and weight policy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under subsections (a) and (d) of section 127 of title 23, United States Code, should not be amended so as to—

(1) weaken the current ''freeze'' on those vehicles; or

(2) result in any more or less restrictive prohibition or restriction on those vehicles.

SA 755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. SANTORUM (for himself and Mr. SPECTER) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking ''Conduct'' and all that follows through ''interchange'' and inserting ''Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area''.

SA 756. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to the amendment SA 681 proposed by Mrs. CLINTON to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies that are—

''(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(II) funded, in whole or in part, under this title; or

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

''(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

''(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

''(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(B) funded, in whole or in part, under this title.

''(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

''(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

''(B) shall—

''(i) consider guidance issued by the Administrator under paragraph (5);

''(ii) limit technologies to those identified by the Administrator under paragraph (5);

''(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

''(iv) give special consideration to small businesses that participate in projects funded under this title;

''(v) place priority on the use of—

''(I) diesel retrofit technologies and activities;

''(II) cost-effective strategies;

''(III) financial incentives using CMAQ resources and State resources; and

''(IV) strategies that maximize health benefits; and

''(vi) not include any activities prohibited by paragraph (4).

''(4) STATE LIMITATIONS.—Emission reduction strategies may not—

''(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

''(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

''(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

''(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

''(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

''(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

''(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

''(D) options and recommendations for the structure and content of emission reduction strategies including—

''(i) emission reduction performance criteria;

''(ii) financial incentives that use CMAQ resources and State resources;

''(iii) procedures to facilitate access by contractors to financial incentives;

''(iv) contract incentives, allowances, and procedures;

''(v) methods of voluntary emission reductions; and

''(vi) other means that may be employed to reduce emissions from construction activities; and

''(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

''(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—

''(1) IN GENERAL.—The credit allowed under subsection (a)—

''(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, CNG, LEG, LPG & hydrogen.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the

cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 758. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 647 by Mr. SESSIONS and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. _____. RAILWAY-HIGHWAY CROSSINGS.

Section 130(e) of title 23, United States Code (as amended by section 1401(c)(1)), is amended by inserting after ''railway-highway crossings'' the following: '', and at least $150,000,000 shall be authorized to be appropriated from the general fund of the Treasury for the elimination of hazards, installation of protective devices, and the purchase of automatic warning signals for use at railway-highway crossings''.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

''§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

''(A) is not a State-designated authority; but

''(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

''(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

''(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

''(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed MAGLEV project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the MAGLEV project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

''(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) of title 49, and

the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $6,000,000 for fiscal year 2005; and

''(II) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $25,000,000 for fiscal year 2005;

''(II) $37,000,000 for fiscal year 2006;

''(III) $21,000,000 for fiscal year 2007; and

''(IV) $9,000,000 for each of fiscal years 2008 and 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $500,000,000 for fiscal year 2005;

''(II) $650,000,000 for fiscal year 2006;

''(III) $850,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $600,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $13,000,000 for fiscal year 2005;

''(II) $16,000,000 for fiscal year 2006;

''(III) $8,000,000 for fiscal year 2007; and

''(IV) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

''(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

SA 760. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 566, strike lines 2 through 9 and insert the following:

''(C) blast furnace slag aggregate;

''(D) silica fume;

''(E) foundry sand; and

''(F) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 9:30 a.m., in closed session to mark up the National Defense Authorization Act for Fiscal Year 2006.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 12, 2005, at 10 a.m., on S. 967, Issues Related to the Broadcast of Prepackaged News Stories Produced by the Government Agencies.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 10 a.m., to hold a Business Meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 12, 2005, at 9:30 a.m., in SD226.

Agenda

I. Nominations: Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit; and Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia.

II. Bills: S. 852—A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. SPECTER, LEAHY, HATCH, FEINSTEIN, GRASSLEY, DEWINE, GRAHAM

III. Matters: Senate Judiciary Committee Rules.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Executive Nominations'' on Thursday, May 12, 2005 at 4 p.m. in Dirksen Senate Office Building, Room 226.

Witness List

Panel I: The Honorable THAD COCHRAN, U.S. Senator, R–MS; the Honorable CHUCK GRASSLEY, U.S. Senator, R–IA; and the Honorable MITCH MCCONNELL, U.S. Senator, R–KY.

Panel II: Rachel Beard, to be an Assistant Attorney General; Alice S.