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**AMENDMENT TO H.R. 3, AS REPORTED  
OFFERED BY MR. KENNEDY OF MINNESOTA**

Strike section 1209 of the bill and insert the following:

1 **SEC. 1209. CONGESTION PRICING PILOT PROGRAM.**

2 (a) Section 129 of title 23, United States Code, is  
3 amended by adding at the end the following:

4 “(e) CONGESTION PRICING PILOT PROGRAM.—

5 “(1) DEFINITIONS.—In this subsection the fol-  
6 lowing definitions apply:

7 “(A) ELIGIBLE TOLL FACILITY.—The term  
8 ‘eligible toll facility’ includes—

9 “(i) a facility in existence on the date  
10 of enactment of this subsection that col-  
11 lects tolls;

12 “(ii) a facility in existence on the date  
13 of enactment of this subsection that serves  
14 high occupancy vehicle lanes; and

15 “(iii) a facility constructed after the  
16 date of enactment of this subsection to cre-  
17 ate additional tolled capacity (including a  
18 facility constructed by a private entity or  
19 using private funds).



1           “(B) NONATTAINMENT AREA.—The term  
2           ‘nonattainment area’ has the meaning given the  
3           term in section 171 of the Clean Air Act (42  
4           U.S.C. 7501).

5           “(2) ESTABLISHMENT.—Notwithstanding sec-  
6           tions 129 and 301, the Secretary may permit a  
7           State, public authority, or a public or private entity  
8           designated by a State, to collect a toll from motor  
9           vehicles at an eligible toll facility for any highway,  
10          bridge, or tunnel, including facilities on the Inter-  
11          state System—

12                  “(A) to manage high levels of congestion;  
13                  or

14                  “(B) to reduce emissions in a nonattain-  
15                  ment area or maintenance area.

16          “(3) LIMITATION ON USE OF REVENUES.—

17                  “(A) IN GENERAL.—All toll revenues re-  
18                  ceived under paragraph (2) shall be used by a  
19                  State or public authority for—

20                          “(i) debt service;

21                          “(ii) a reasonable return on invest-  
22                          ment of any private financing;

23                          “(iii) the costs necessary for proper  
24                          operation and maintenance of any facilities  
25                          under paragraph (2) (including reconstruc-



1           tion, resurfacing, restoration, and rehabili-  
2           tation); and

3           “(iv) highway projects eligible for  
4           Federal assistance under this title if the  
5           Secretary certifies that the necessary costs  
6           under clauses (i), (ii), and (iii) have been  
7           satisfied.

8           “(B) REQUIREMENTS.—

9           “(i) VARIABLE PRICE REQUIRE-  
10          MENT.—The Secretary shall require, for  
11          each facility that charges tolls under this  
12          subsection, that the tolls vary in price ac-  
13          cording to time of day, as appropriate to  
14          manage congestion or improve air quality.

15          “(ii) HOV PASSENGER REQUIRE-  
16          MENTS.—A State may permit motor vehi-  
17          cles with fewer than 2 occupants to oper-  
18          ate in high occupancy vehicle lanes as part  
19          of a variable toll pricing program estab-  
20          lished under this subsection, provided the  
21          State complies with the requirements  
22          under section 1208 of the Transportation  
23          Equity Act: A Legacy for Users.

24          “(iii) REASONABLE RATE REQUIRE-  
25          MENT.—Variations in the toll rate between



1 different classes of vehicles for a facility  
2 under this section shall be reasonable, as  
3 determined by the Secretary.

4 “(C) AGREEMENT.—

5 “(i) IN GENERAL.—Before the Sec-  
6 retary may permit a facility to charge tolls  
7 under this subsection, the Secretary and  
8 the applicable State or public authority  
9 shall enter into an agreement for each fa-  
10 cility incorporating the conditions de-  
11 scribed in subparagraphs (A) and (B).

12 “(ii) TERMINATION.—An agreement  
13 under clause (i) shall terminate with re-  
14 spect to a facility upon the decision of the  
15 State or public authority to discontinue the  
16 variable tolling program under this sub-  
17 section for the facility.

18 “(iii) DEBT.—If there is any debt out-  
19 standing on a facility at the time at which  
20 the decision is made to discontinue the  
21 program under this subsection with respect  
22 to the facility, the facility may continue to  
23 charge tolls in accordance with the terms  
24 of the agreement until such time as the  
25 debt is retired.



1           “(D) LIMITATION ON FEDERAL SHARE.—

2           The Federal share of the cost of a project on  
3           a facility tolled under this subsection, including  
4           a project to install the toll collection facility  
5           shall be a percentage, not to exceed 80 percent,  
6           determined by the applicable State.

7           “(4) ELIGIBILITY.—To be eligible to participate  
8           in the program under this subsection, a State or  
9           public authority shall provide to the Secretary—

10           “(A) a description of the congestion or air  
11           quality problems sought to be addressed under  
12           the program;

13           “(B) a description of—

14           “(i) the goals sought to be achieved  
15           under the program; and

16           “(ii) the performance measures that  
17           would be used to gauge the success made  
18           toward reaching those goals; and

19           “(C) such other information as the Sec-  
20           retary may require.

21           “(f) AUTOMATION.—A facility created or modified  
22           under this section shall use an electronic toll collection sys-  
23           tem that uses a transponder or other means to specify an  
24           account for the purposes of collecting a toll as a vehicle  
25           passes through the collection facility.



1 “(g) INTEROPERABILITY.—

2 “(1) RULE.—

3 “(A) IN GENERAL.—Not later than 180  
4 days after the date of enactment of this sub-  
5 section, the Secretary shall promulgate a final  
6 rule specifying requirements, standards, or per-  
7 formance specifications for automated toll col-  
8 lection systems implemented under this section.

9 “(B) DEVELOPMENT.—In developing that  
10 rule, which shall be designed to maximize the  
11 interoperability of electronic collection systems,  
12 the Secretary shall, to the maximum extent  
13 practicable—

14 “(i) seek to accelerate progress toward  
15 the national goal of achieving a nationwide  
16 interoperable electronic toll collection sys-  
17 tem;

18 “(ii) take into account the use of  
19 transponders currently deployed within an  
20 appropriate geographical area of travel and  
21 the transponders likely to be in use within  
22 the next 5 years; and

23 “(iii) seek to minimize additional costs  
24 and maximize convenience to users of the

1 toll facility and to the toll facility owner or  
2 operator.

3 “(2) FUTURE MODIFICATIONS.—As the state of  
4 technology progresses, the Secretary shall modify the  
5 rule promulgated under paragraph (1)(A), as appro-  
6 priate.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) IN GENERAL.—Section 1012 of the Inter-  
9 modal Surface Transportation Efficiency Act (23  
10 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is  
11 amended by striking subsection (b).

12 (2) CONTINUATION OF PROGRAM.—Notwith-  
13 standing the amendment made by paragraph (1),  
14 the Secretary shall monitor and allow any existing  
15 project associated with a value pricing program es-  
16 tablished under a cooperative agreement in effect on  
17 the day before the date of enactment of this Act to  
18 continue.

Strike paragraph (3) of section 1603(c) of the bill  
and insert the following:



19 (3) An analysis demonstrating that the facility  
20 could not be maintained or improved to meet current  
21 or future needs from the State’s apportionments and  
22 allocations made available by this Act (including  
23 amendments made by this Act) and from revenues

1 for highways from any other source without toll rev-  
2 enues.

Strike subsection (a) of section 1603 of the bill and  
insert the following:

3 (a) ESTABLISHMENT.—The Secretary shall establish  
4 and implement an Interstate System reconstruction and  
5 rehabilitation pilot program under which the Secretary,  
6 notwithstanding sections 129 and 301 of title 23, United  
7 States Code, may permit a State to collect tolls on a high-  
8 way, bridge, or tunnel on the Interstate System for the  
9 purpose of reconstructing and rehabilitating Interstate  
10 highway corridors that could not otherwise be adequately  
11 maintained or functionally improved without the collection  
12 of tolls.

After section 1603(c)(4)(C) of the bill, insert the fol-  
lowing (and redesignate any subsequent subparagraphs  
accordingly):

13 (D) an agreement for public disclosure of  
14 revenues generated and operating expenditures.

Strike paragraph (1) of section 1603(d) of the bill  
and insert the following:

15 (1) the State is unable to reconstruct or reha-  
16 bilitate the proposed toll facility using existing ap-  
17 portionments;



Strike section 1604 of the bill and insert the following (and conform the table of contents accordingly):

1 **SEC. 1604. FAST LANES.**

2 (a) **IN GENERAL.**—Subchapter I of chapter I of title  
3 23, United States Code, is amended by adding at the end  
4 the following:

5 **“§ 169. Fast fees**

6 “(a) **ESTABLISHMENT.**—The Secretary shall estab-  
7 lish and implement an Interstate System FAST lanes pro-  
8 gram under which the Secretary, notwithstanding sections  
9 129 and 301, shall permit a State, or a public or private  
10 entity designated by a State, to collect fees to finance the  
11 construction or expansion of an interstate highway, for the  
12 purpose of reducing traffic congestion, by constructing 1  
13 or more additional lanes (including bridge, support, and  
14 other structures necessary for construction or expansion)  
15 on the Interstate System.

16 “(b) **ELIGIBILITY.**—To be eligible to participate in  
17 the program, a State shall submit to the Secretary for ap-  
18 proval an application that contains—

19 “(1) an identification of the additional lanes  
20 (including any necessary bridge, support, and other  
21 structures) to be constructed on the Interstate Sys-  
22 tem under the program;



1           “(2) in the case of 1 or more additional lanes  
2           that affect a metropolitan area, an assurance that  
3           the metropolitan planning organization established  
4           under section 134 for the area has been consulted  
5           during the planning process concerning the place-  
6           ment and amount of fees on the FAST lanes; and

7           “(3) a facility management plan that includes—

8                   “(A) a plan for implementing the imposi-  
9                   tion of fees on the additional lanes;

10                   “(B) a schedule and finance plan for con-  
11                   struction, operation, and maintenance of the  
12                   additional lanes using revenues from fees (and,  
13                   as necessary to supplement those revenues, rev-  
14                   enues from other sources); and

15                   “(C) a description of the public or private  
16                   entities that will be responsible for implementa-  
17                   tion and administration of the program.

18           “(c) REQUIREMENTS.—The Secretary shall approve  
19           the application of a State for participation in the program  
20           after the Secretary determines that, in addition to meeting  
21           the requirements of subsection (b), the State has entered  
22           into an agreement with the Secretary that provides that—

23                   “(1) fees collected from motorists using a  
24                   FAST lane shall be collected only through the use  
25                   of noncash electronic technology;



1           “(2) all revenues from fees received from oper-  
2           ation of FAST lanes shall be used only for—

3                   “(A) debt service relating to the invest-  
4                   ment in FAST lanes;

5                   “(B) reasonable return on investment of  
6                   any private entity financing the project, as de-  
7                   termined by the State;

8                   “(C) any costs necessary for the improve-  
9                   ment, and proper operation and maintenance  
10                  (including reconstruction, resurfacing, restora-  
11                  tion, and rehabilitation), of FAST lanes and ex-  
12                  isting lanes, if the improvement—

13                           “(i) is necessary to integrate existing  
14                           lanes with the FAST lanes;

15                           “(ii) is necessary for the construction  
16                           of an interchange (including an on- or off-  
17                           ramp) from the FAST lane to connect the  
18                           FAST lane to—

19                                   “(I) an existing FAST lane;

20                                   “(II) the Interstate System; or

21                                   “(III) a highway; and

22                           “(iii) is carried out before the date on  
23                           which fees for use of FAST lanes cease to  
24                           be collected in accordance with paragraph  
25                           (6); or



1           “(D) the establishment by the State of a  
2           reserve account to be used only for long-term  
3           maintenance and operation of the FAST lanes;

4           “(3) fees may be collected only on and for the  
5           use of FAST lanes, and may not be collected on or  
6           for the use of existing lanes;

7           “(4) use of FAST lanes shall be voluntary;

8           “(5) revenues from fees received from operation  
9           of FAST lanes may not be used for any other  
10          project (except for establishment of a reserve ac-  
11          count described in paragraph (2)(D) or as otherwise  
12          provided in this section);

13          “(6) on completion of the project, and on com-  
14          pletion of the use of fees to satisfy the requirements  
15          for use of revenue described in paragraph (2), no ad-  
16          ditional fees shall be collected; and

17          “(7)(A) to ensure compliance with paragraphs  
18          (1) through (5), annual audits shall be conducted for  
19          each year during which fees are collected on FAST  
20          lanes; and

21          “(B) the results of each audit shall be sub-  
22          mitted to the Secretary.

23          “(d) APPORTIONMENT.—

24          “(1) IN GENERAL.—Revenues collected from  
25          FAST lanes shall not be taken into account in deter-



1 mining the apportionments and allocations that any  
2 State or transportation district within a State shall  
3 be entitled to receive under or in accordance with  
4 this chapter.

5 “(2) NO EFFECT ON STATE EXPENDITURE OF  
6 FUNDS.—Nothing in this section affects the expendi-  
7 ture by any State of funds apportioned under this  
8 chapter.

9 “(e) DEFINITION.—For purposes of this section, the  
10 term ‘FAST lane’ means a interstate highway or inter-  
11 state highway lane, financed, at least in part, through the  
12 collection of fees, that is added to the Interstate System  
13 to reduce traffic congestion.”.

14 (b) CONFORMING AMENDMENT.—

15 (1) The analysis for subchapter I of chapter 1  
16 of title 23, United States Code, as amended by sec-  
17 tion 1208 of the bill, is amended by inserting after  
18 the item relating to section 168 the following:

“169. FAST fees.”.

19 (2) Section 301 of title 23, United States Code,  
20 is amended by inserting after “tunnels,” the fol-  
21 lowing: “and except as provided in section 169,”.

At the end of title I of the bill, insert the following  
(and conform the table of contents of the bill accord-  
ingly):



1 **SEC. 1838. FREEDOM FROM TOLLS.**

2 Section 301 of title 23, United States Code, is  
3 amended by inserting before the comma the following:  
4 “and section 169”.

At the end of title III of the bill, insert the following  
(and conform the table of contents of the bill accord-  
ingly):

5 **SEC. 3047. CONGRESSIONAL INTENT REGARDING TRANSIT**  
6 **INVOLVEMENT.**

7 It is the intention of Congress to work with the States  
8 and the private sector to include bus rapid transit when  
9 adding FAST capacity to the Interstate System

At the end of section 1105 of the bill strike the end  
quotation marks and the last period and insert the fol-  
lowing:

10 “(k) TOLL FEASIBILITY.—The Secretary shall select  
11 and conduct a study on a project under this title that is  
12 intended to increase capacity, and that has an estimated  
13 total cost of at least \$50,000,000, to determine whether—

14 “(1) a toll facility for the project is feasible;

15 and

16 “(2) privatizing the construction, operation, and  
17 maintenance of the toll facility is financially advis-  
18 able (while retaining legal and administrative control  
19 of the portion of the applicable Interstate route).”.

