

22 AN AMENDMENT TO BE OFFERED BY  
REPRESENTATIVE KENNEDY OF  
MINNESOTA, OR HIS DESIGNEE,  
DEBATABLE FOR 20 MINUTES.

**AMENDMENT TO H.R. 3550, AS REPORTED  
OFFERED BY MR. KENNEDY OF MINNESOTA**

Title I, amend section 1209 to read as follows (and conform the table of contents accordingly):

**1 SEC. 1209. REPEAL.**

2 Section 1012(b) of the Intermodal Surface Transpor-  
3 tation Efficiency Act of 1991 (23 U.S.C. 149 note; 105  
4 Stat. 1938) is repealed.

Title I, strike sections 1603 and 1604 and insert the following (and conform the table of contents of the bill accordingly):

**5 SEC. 1603. FAST FEES.**

6 (a) IN GENERAL.—Subchapter I of chapter 1 of title  
7 23, United States Code, as amended by section 1208 of  
8 the bill, is amended by adding at the end the following:

**9 “§ 168. FAST fees**

10 “(a) ESTABLISHMENT.—The Secretary shall estab-  
11 lish and implement an Interstate System FAST Lanes  
12 program under which the Secretary, notwithstanding sec-  
13 tions 129 and 301, shall permit a State, or a public or  
14 private entity designated by a State, to collect fees to fi-  
15 nance the expansion of a highway, for the purpose of re-  
16 ducing traffic congestion, by constructing 1 or more addi-  
17 tional lanes (including bridge, support, and other struc-



1 tures necessary for that construction) on the Interstate  
2 System.

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

6 “(1) an identification of the additional lanes  
7 (including any necessary bridge, support, and other  
8 structures) to be constructed on the Interstate Sys-  
9 tem under the program;

10 “(2) in the case of 1 or more additional lanes  
11 that affect a metropolitan area, an assurance that  
12 the metropolitan planning organization established  
13 under section 134 for the area has been consulted  
14 during the planning process concerning the place-  
15 ment and amount of fees on the additional lanes;  
16 and

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

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

20 “(B) a schedule and finance plan for con-  
21 struction, operation, and maintenance of the  
22 additional lanes using revenues from fees (and,  
23 as necessary to supplement those revenues, rev-  
24 enues from other sources); and



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

4           “(c) REQUIREMENTS.—The Secretary shall approve  
5           the application of a State for participation in the program  
6           after the Secretary determines that, in addition to meeting  
7           the requirements of subsection (b), the State has entered  
8           into an agreement with the Secretary that provides that—

9           “(1) fees collected from motorists using a  
10          FAST lane shall be collected only through the use  
11          of noncash electronic technology;

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

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

16                 “(B) reasonable return on investment of  
17                 any private entity financing the project, as de-  
18                 termined by the State;

19                 “(C) any costs necessary for the improve-  
20                 ment, and proper operation and maintenance  
21                 (including reconstruction, resurfacing, restora-  
22                 tion, and rehabilitation), of FAST lanes and ex-  
23                 isting lanes, if the improvement—

24                         “(i) is necessary to integrate existing  
25                         lanes with the FAST lanes;



1                   “(ii) is necessary for the construction  
2                   of an interchange (including an on- or off-  
3                   ramp) from the FAST lane to connect the  
4                   FAST lane to—

5                               “(I) an existing FAST lane;

6                               “(II) the Interstate System; or

7                               “(III) a highway; and

8                   “(iii) is carried out before the date on  
9                   which fees for use of FAST lanes cease to  
10                   be collected in accordance with paragraph  
11                   (6); or

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

15                               “(3) fees may be collected only on and for the  
16                   use of FAST lanes, and may not be collected on or  
17                   for the use of existing lanes;

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

19                               “(5) revenues from fees received from operation  
20                   of FAST lanes may not be used for any other  
21                   project (except for establishment of a reserve ac-  
22                   count described in paragraph (2)(D) or as otherwise  
23                   provided in this section);

24                               “(6) on completion of the project, and on com-  
25                   pletion of the use of fees to satisfy the requirements



1 for use of revenue described in paragraph (2), no ad-  
2 ditional fees shall be collected; and

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

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

9 “(d) APPORTIONMENT.—

10 “(1) IN GENERAL.—Revenues collected from  
11 FAST lanes shall not be taken into account in deter-  
12 mining the apportionments and allocations that any  
13 State or transportation district within a State shall  
14 be entitled to receive under or in accordance with  
15 this chapter.

16 “(2) NO EFFECT ON STATE EXPENDITURE OF  
17 FUNDS.—Nothing in this section affects the expendi-  
18 ture by any State of funds apportioned under this  
19 chapter.”.

20 (b) CONFORMING AMENDMENT.—

21 (1) The analysis for subchapter I of chapter 1  
22 of title 23, United States Code, is amended by in-  
23 sserting after the item relating to section 167, as  
24 added by section 1208 of the bill, the following:

“168. FAST fees.”.



1           (2) Section 301 of title 23, United States Code,  
2           is amended by inserting after “tunnels,” the fol-  
3           lowing: “and except as provided in section 168,”.

4 **SEC. 1604. TOLL FEASIBILITY.**

5           Section 106 of title 23, United States Code, as  
6           amended by section 1605 of this bill, is further amended  
7           by adding at the end the following:

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

12                 “(1) a toll facility for the project is feasible;  
13                 and

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

