



STATE OF CONNECTICUT

DEPARTMENT OF TRANSPORTATION

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Office of the
Commissioner

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Public Hearing – February 23, 2009 Transportation Committee

Testimony Submitted by Commissioner Joseph F. Marie Department of Transportation

S. B. 431 - An Act Concerning the Establishment of Ez Pass Tolls on State Highways and Bridges.

S. B. 445 - An Act Concerning Congestion Pricing on Connecticut Highways.

H. B. 6213 - An Act Reinstating Toll Booths on Major State Highways.

H. B. 6269 - An Act Concerning Open Road Congestion Pricing on Certain Connecticut Highways.

The Department of Transportation (ConnDOT) offers the following information to the Transportation Committee on toll programs currently allowable under the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) as the committee deliberates on toll/congestion pricing legislation.

The Federal-aid Highway Program, Title 23 of the United States Code (23 U.S.C.), offers States and/or other public entities a variety of opportunities to toll motor vehicles to finance Interstate construction and reconstruction, promote efficiency in the use of highways, reduce traffic congestion and/or improve air quality. In addition to providing States and/or other public entities the authority to toll motor vehicles, the Value Pricing Pilot program is unique in providing grants for pre-implementation and non-construction related implementation costs of tolling, and for non-highway related pricing activities. ConnDOT had submitted an application to the Federal Highway Administration (FHWA) under this program to conduct a value pricing pre-implementation study to determine the feasibility, and evaluate alternative systems and their financial, operational, social and environmental effects. Federal funding was never provided under this application.

Attached is an overview of the following federal toll programs currently permissible under Federal Regulations:

- Express Lanes Demonstration Program
- High Occupancy Vehicle (HOV) Facilities

Toll Programs SAFETEA-LU

- Interstate System Reconstruction & Rehabilitation Pilot Program
- Interstate System Construction Toll Pilot Program
- Title 23 United States Code Section 129 Toll Agreements
- Value Pricing Pilot program

For further information or questions, please contact Pam Sucato, Legislative Program Manager for the Department of Transportation at (860) 594-3013.

EXPRESS LANES DEMONSTRATION PROGRAM

This new demonstration program permits tolling on selected facilities to manage high levels of congestion, reduce emissions in a non-attainment or maintenance area under the Clean Air Act Amendments, or finance added Interstate lanes for the purpose of reducing congestion.

The Secretary is authorized to carry out 15 demonstration projects through 2009 to allow States, public authorities, or public or private entities designated by States to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including on the Interstate. An "eligible toll facility" includes those accomplishing any of the following:

- manage high levels of congestion typically by varying the toll price by time of day or level of traffic;
- reduce emissions in a non-attainment area or maintenance area;
- finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing one or more additional lanes (including bridges, tunnels, supports, or other necessary structures) on the Interstate System.

Qualified Demonstration Projects may consist of:

- variable pricing by time of day or level of traffic, as appropriate to manage congestion or improve air quality, is required if an HOV facility is tolled; for a non-HOV facility, variable pricing is optional;
- motor vehicles with fewer than 2 occupants may be permitted to use HOV lanes as part of a variable toll pricing program;
- automatic toll collection is required in express lanes to optimize free flow of traffic; and
- toll revenue may only be used for debt service, reasonable rate of return on private financing, operation and maintenance costs, or any eligible title 23 or 49 project if the facility is being adequately maintained.

Federal share of project cost of a facility tolled under this program, including installation of the toll collection facility, is not to exceed 80 percent.

High Occupancy Vehicle (HOV) Facilities, SAFETEA-LU Section 1121 (23 USC 166)

Section 1121 of SAFETEA-LU replaces Section 102(a) of Title 23 of the United States Code (23 U.S.C.) with a new Section 166 that clarifies some aspect of the operation of HOV facilities and provides more exceptions to the vehicle occupancy requirements for HOV facilities. It also authorizes States to create High Occupancy Toll (HOT) lanes. Specifically, this section allows States to charge tolls to vehicles that do not meet the established occupancy requirements to use an HOV lane if the State establishes a program that addresses the selection of certified vehicles and procedures for enforcing the restrictions. Tolls under this section may be charged on both Interstate and non-Interstate facilities. There is no limit on the number of projects or the number of states that can participate.

If a State desires to allow HOT vehicles to use HOV lane by creating a HOT lane or converting an existing HOV lane to a HOT lanes, an Expression of Interest should be sent to the Tolling and Pricing Team and the local Division Office to initiate a Federal Review process. For more information about the Federal Review, refer to the Federal-Aid Highway Program Guidance on HOV Lanes.

Interstate System Reconstruction & Rehabilitation Pilot Program

SAFETEA-LU continued the authority initially provided in Section 1216 (b) of TEA-21, by allowing up to three existing Interstate facilities (highway, bridge, or tunnel) to be tolled to fund needed reconstruction or rehabilitation on Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls. Each of the three facilities must be in a different State. There is no special funding authorized for this program. By law, Interstate maintenance funds may not be used on a facility for which tolls are being collected under this program.

Interstate System Construction Toll Pilot Program

This program authorizes up to three facilities on the Interstate System to toll for the purpose of financing the construction of new Interstate highways. A State or an interstate "compact of States" may submit a single candidate project under this program. Each applicant must demonstrate that financing the construction of the facility with the collection of tolls is the most efficient and economical way to advance the project. The State must agree not to enter into a noncompete agreement with a private party under which the State is prevented from improving or expanding the capacity of public roads in the vicinity of the toll facility to address conditions resulting from traffic diverted to nearby roads from the toll facility. There is no special funding authorized for this program. By law, Interstate maintenance funds may not be used on a facility for which tolls are being collected under this program.

The "At-a-Glance" features of this program are as follows:

- States or Interstate compacts of States are eligible to apply;
- there is no requirement that the facilities be in different States;
- tolling must be the most efficient and economical way to finance the project, but it doesn't have to be the only way;
- a facility management plan must be submitted;
- automatic toll collection is required;
- non-compete agreements are prohibited -- a State may not enter into an agreement with a private entity that prevents the State from improving or expanding capacity of adjacent roads to address conditions resulting from diverted traffic;
- revenues may be used only for debt service, reasonable return on investment of private entity, and operation and maintenance costs; regular audits will be conducted;
- Interstate Maintenance funds may not be used on the facility while it is tolled;
- applications must be received by FHWA before August 10, 2015.

Title 23 United States Code (23 U.S.C.) Section 129 Toll Agreements

Under 23 U.S.C. 129, Federal participation is allowed in the following five types of toll activities.

- Initial construction (except on the Interstate System) of toll highways, bridges, and tunnels, including the approaches to these facilities;
- Reconstructing, resurfacing, restoring, and rehabilitating of any existing toll facility;
- Reconstruction or replacement of free bridges or tunnels and conversion to toll facilities;
- Reconstruction of a free Federal-aid highway (except on the Interstate system) and conversion to a toll facility; and
- Preliminary studies to determine the feasibility of the above toll construction activities.

If Federal-aid funds are used for construction of or improvements to a toll facility or the approach to a toll facility or if a State plans to reconstruct and convert a free highway, bridge or tunnel previously constructed with Federal-aid funds to a toll facility, a toll agreement under Section 129(a)(3) must be executed. There is no limit to the number of agreements that may be executed.

Value Pricing Pilot (VPP) Program

This pilot program, initially authorized in the Intermodal Surface Transportation Efficiency Act (ISTEA) as the Congestion Pricing Pilot Program, encourages implementation and evaluation of value pricing pilot projects. The VPP program offers flexibility to encompass a variety of projects to manage congestion on highways, including tolling of highway facilities and other strategies not involving tolls. There are five types of pricing strategies implemented or under consideration in the U.S., including four types of pricing strategies (identified as A through D below) and one type of strategy (identified as E below) that can cover all four types of pricing strategies:

A. *New tolls on existing toll-free facilities (usually electronically-collected)*, including:

- Tolls for vehicles not meeting occupancy requirements on high occupancy vehicle (HOV) lanes;
- "Cordon tolls" around a designated area, or area pricing; and
- Tolls on one or more general purpose lanes, with toll credits provided on adjacent lanes, a concept known as "FAIR" lanes.

B. *Tolls on lanes added to existing highways (usually electronically-collected)*, including:

- Tolls on new general purpose lanes;
- Tolls on new HOV lanes for vehicles not meeting occupancy requirements; and
- Tolls on "queue bypass" lanes added at choke points such as freeway on-ramps and arterial street intersections.

C. *Variable tolls (usually electronically-collected) on existing and new toll roads, bridges, and tunnels* that are collected via an electronic transponder;

D. *Pricing strategies that do not involve tolls*, including:

- Usage-based vehicle charges, such as mileage-based charges for insurance, taxes, or leasing fees; and
- "Cash-out" of employer provided parking spaces or cars owned by urban residents.

E. *Region-wide pricing initiatives* within metropolitan areas attempting to identify candidates for implementation of pilot pricing projects.

The VPP program is funded by contract authority. Funds are subject to the overall Federal-aid highway obligation limitation. The Federal share is a maximum of 80 percent. Pre-implementation costs, project design, and all development and start-up costs are eligible project expenses. There is no change to the pre-existing limit of 15 pilot value pricing programs. A new set-aside of \$3 million per year (2006-2009) is to be used only for pricing projects that do not involve highway tolls.